

# MIGRANT INTEGRATION POLICY INDEX

PAVING THE WAY  
FOR INTEGRATION:  
THE PATHWAYS  
TO CITIZENSHIP  
IN FRANCE AND  
THE UNITED STATES

MIPEX

[WWW.MIPEX.EU](http://WWW.MIPEX.EU)

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Website for full MIPEX results, online tool and information about MIPEX events across the world:

[www.mipex.eu](http://www.mipex.eu)

Information about immigration policies in France:

[www.france-terre-asile.org](http://www.france-terre-asile.org)

Information about immigration policies in the United States:

[www.immigrationpolicy.org](http://www.immigrationpolicy.org)

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# INTRODUCTION

## **What is the Migrant Integration Policy Index?**

The Migrant Integration Policy Index (MIPEX) is a reference guide and fully interactive tool to assess, compare and improve integration policy. It measures integration policies in 31 countries in Europe and North America. Using 148 policy indicators the MIPEX creates a rich, multi-dimensional picture of migrants' opportunities to participate in society by assessing governments' commitment to integration. By measuring policies and their implementation it reveals whether all residents are guaranteed equal rights, responsibilities and opportunities.

[www.mipex.eu/about](http://www.mipex.eu/about)

## **What's new in the MIPEX?**

This update of the MIPEX covers the policies in France and the United States of America as of 1 January 2013. This data is compared to the data from other MIPEX countries from 2010 covering Australia, Canada, Japan, all EU Member States, Norway, and Switzerland.

## **What does MIPEX do?**

MIPEX promotes transparency by increasing public knowledge and visibility of national policies, changes and international trends. The project stimulates debate on government objectives, progress and results. It also inspires integration actors to collect further evidence of how legal integration can work to promote societal integration in practice.

MIPEX establishes the extent to which all residents are legally entitled to equal rights and responsibilities as well as to any support that addresses their specific needs to make equal opportunities a reality. It answers questions on enforcement mechanisms, such as sanctions, the existence of equality bodies and their mandate, the role of non-governmental organisations and dialogue with social partners. Where such mechanisms do not exist, integration actors can call for their creation. Where they do exist, actors can (learn to) use them effectively.

## **Who produces MIPEX?**

The MIPEX project is currently led by the Migration Policy Group. National-level organisations, including think-tanks, non-governmental organisations, foundations, universities, research institutes and equality bodies are affiliated with the MIPEX project in countries across Europe, Canada and the USA.

The research is designed, coordinated and undertaken by the Migration Policy Group in cooperation with the research partners. The publication, including the results and country profiles, were written by the Migration Policy Group.

This publication provides an update of the MIPEX country profiles for France and the United States as well as a comparative report on the path to citizenship in both countries, based on supplementary questionnaires answered by experts at France terre d'asile and the Immigration Policy Center.

The MIPEX update was graciously supported by the French embassy to the United States.

**What are the highest standards used by MIPEX?**

For each of the 7 policy areas: labour market mobility, family reunion, education, political participation, long-term residence, access to nationality and anti-discrimination, MIPEX identifies the highest European or international standards aimed at achieving equal rights, responsibilities and opportunities for all residents.

**How does MIPEX decide the scores?**

There are 148 policy indicators on migrant integration in the MIPEX. These have been designed to benchmark current laws and policies against the highest standards through consultations with top scholars and institutions using and conducting comparative research in their area of expertise. A policy indicator is a question relating to a specific policy component of one of the 7 policy areas. For each answer, there are 3 options. The maximum of 3 points is awarded when policies meet the highest standards for equal treatment. A score of 2 is given when policies lie halfway to the highest standards, and a score of 1 is given when they are furthest from the highest standards. Scores of 1 or 2 are given for rephrased versions of the more restrictive provisions of European/international law or of national practice. Where a country has no policies on a specific indicator, it is given a default value of 1.

Within each of the 7 policy areas, the indicator scores are averaged together to give one of 4 dimension scores which examine the same aspect of policy. The 4 dimension scores are then averaged together to give the policy area score for each of the 7 policy areas per country which, averaged together one more time, lead to the overall scores for each country. In order to make rankings and comparisons, the initial 1-3 scale is converted into a 0-100 scale for dimensions and policy areas, where 100% is the top score.

**Who gathered the data?**

Unlike indexes based on expert opinion, MIPEX is based on public laws, policies and research. In every country, independent scholars and practitioners in migration law, education and anti-discrimination, filled out the score for each indicator based on the country's publically available documents as of May 2010. The MIPEX update for France and the United States were conducted by research staff at France terre d'asile and the Immigration Policy Center. The Migration Policy Group moderated any discrepancies and checked the completed questionnaires for consistency across strands and countries over time.

**How do policies affect integration?**

MIPEX demonstrates how countries can do better in creating the legal environment in which immigrants can contribute to a country's well-being, where they have equal access to employment and education, live in security with their families, become active citizens and are protected against discrimination.

Since policies are one factor influencing integration, MIPEX can be used as a starting point to evaluate how policy changes can improve integration in practice. This information must be sourced from official statistics, budgets, project and scientific evaluations, government reporting, and evidence from NGO's, courts and migrants. Further research should investigate whether a policy is working in practice and answer how changes in integration policy are:

1. based on evidence and international standards
2. funded and implemented
3. evaluated for those who are supposed to benefit
4. analysed for their broader impact on society
5. improved based on new evidence.

# USER'S GUIDE

Integration actors can struggle to find up-to-date, comprehensive research data and analysis on which to base policies, proposals for change and projects to achieve equality in their country. Instead they may find anecdotal, out-dated information and piecemeal statistics that are too disconnected from the real impact on people's lives to assist in formulating improvements.

The MIPEX aims to address this by providing a comprehensive tool which can be used to assess, compare and improve integration policy. The MIPEX includes 31 countries in order to provide a view of integration policies across a broad range of differing environments. For a long time North America was cited as the continent of immigration, while Europe was largely a continent of emigration. Some European countries still are (including many in Central Europe and the Baltics). Now a great many European countries are established countries of immigration (Nordic countries, Western Europe, the major Southern countries), where every year many people come into the country, often more than leave. For some countries, immigration is a very recent phenomenon (including Southern Europe, Czech Republic, Finland, and Ireland), while many attract migrant workers. For more information on these terms, see [www.mipex.eu](http://www.mipex.eu).

The tool allows you to dig deep into the multiple factors that influence the integration of migrants into society and allows you to use the full MIPEX results to analyse and assess past and future changes in policy.

## **Government**

The MIPEX tool gives policymakers a quick reference guide to assess the impact of their policy changes and get an overall impression of their country's strengths and weaknesses. This allows governments to see the effects of their approach and policy changes. It highlights policies that score well and possible areas for improvement. You can compare these strengths and weaknesses with other countries, either across your region, Europe and North America, or all the countries at once. You can find inspiration for policies and learn lessons from their objectives, implementation, and results. You can also use MIPEX to assess the impact of future changes and evaluate past policies. You can further collect and share evidence about how past policies were funded, implemented, and evaluated, so that future policies can improve.

[www.mipex.eu/government](http://www.mipex.eu/government)

## **Advocacy**

Advocacy organisations and migrants can combine their practice and experience-based recommendations with the MIPEX research findings. This benchmarking tool can bring international information and standards to their advocacy. MIPEX not only monitors policy changes, but can also be used proactively to improve implementation and propose policy changes that would improve integration. You can see how to improve policies in specific areas and how to better implement existing policies by comparing them with the approach of top-scoring countries and with the highest standards.

[www.mipex.eu/advocacy](http://www.mipex.eu/advocacy)

**Global actors**

The MIPEX can be used by global actors as a benchmark to assess the impact of international and European standards, be they binding law, voluntary agreements or recommendations, on national law and policies. It also presents information on how national governments have committed to their implementation. You can see who falls below and who goes beyond these standards; whether standards have motivated change and improvements and if there is a need for assistance in developing implementation measures. Where there are no standards you can see if there is room for future cooperation by looking at common strengths and weaknesses.

[www.mipex.eu/global-actors](http://www.mipex.eu/global-actors)

**Research**

Since the project aims to make integration policy data both visible and useable to the public, researchers are incorporating it into their research, making MIPEX a platform for greater comparative knowledge on integration. It provides a systematic categorisation across 7 areas of expertise and currently across 31 countries. Its evaluation framework turns policies into numbers, using national experts to report the facts in law and policy. The scores and scales provide for clear and coherent interpretations based on standards for equal treatment. The full results and expert commentary can be downloaded, and you can use the interactive online tool to compare countries. The entire data set can be used for in-depth quantitative and qualitative research on specific issues, for comparison across countries and to evaluate how different factors impact on policies and why countries differ from each other. To link legal and societal integration, multivariate analysis can compare policies to funding, public and migrant opinion data, the results of official evaluations, and changes in integration statistics.

[www.mipex.eu/research](http://www.mipex.eu/research)

**Press**

The MIPEX can be used by both the international and national media as a reliable, quick reference guide to provide in-depth understanding on where countries are doing well in providing equal rights, responsibilities and opportunities to migrants, and where they are falling behind. You can compare countries to neighbouring or other countries, and get an overview of what has changed and what could be done to improve integration. Since the MIPEX is updated continuously, you can regularly access contextual information and keep abreast of what is on the agenda in your country with regards to migrant integration and the impact it has on society. You can find the reasoning behind low and high scores in your country and use the results to supplement the human angle of stories on migrants and their experiences.

[www.mipex.eu/press](http://www.mipex.eu/press)



# PAVING THE WAY FOR INTEGRATION: THE PATHWAYS TO CITIZENSHIP IN FRANCE AND THE UNITED STATES

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## Introduction

A clear path to citizenship is a sign of a confident country of immigration. During the twentieth century, naturalization became central to the integration strategies of the world's traditional countries of immigration: the United States, Australia, Canada and New Zealand. Decades after so-called 'guest workers' arrived in Western Europe and built new lives in their adopted countries, Western European governments passed major reforms creating legalizations, clearer pathways to naturalization, tolerance of dual nationality, and some form of birthright citizenship. They saw these reforms as a recognition that the nation had transformed into a country of permanent immigration and an increasingly diverse society. This process is now repeating itself in Europe's newer countries of immigration in the South, such as Spain, Italy, and Portugal. Within Europe, France has one of the longest established histories of immigration and inclusive traditions of citizenship dating back to the nineteenth century.

Similarly, the United States, which prides itself on its immigrant heritage, has demonstrated a history of expanded immigration measures, often reflecting the changing social climate of the day. Despite a vibrant immigrant tradition, however, the United States has also been subject to waves of anti-immigrant sentiment, most recently evidenced in a series of anti-immigrant laws passed at the state level. Other recent profound influences on American immigration policy have included the terrorist attacks of September 11, 2001, a surge of illegal immigration during the economic boom of the 1990s, and rapidly changing demographic patterns that have given rise to large groups of new voters who are New Americans—naturalized citizens or their children.

Since no country is safe from the politicization of immigration, reforms and revisions have been done, undone, and done again. A country's pathway to citizenship is often affected by its response to irregular migration. Although the size and nature of the unauthorized population varies from country-to-country, most major destinations experience rises and falls in irregular immigration, residence, and employment. This process is driven not only by world events beyond their borders, but also needs within their own population and often the limited opportunities for legal immigration and secure residence within their immigration system. This persistent reality can test peoples' confidence in their politicians, their perception of their immigration system, and their solidarity with other people.

**The recent past in France and the United States show that the pathway to citizenship can be one of the casualties.** For nearly two decades, the US's intensified enforcement-only policy to deter irregular migration<sup>1</sup> has left the federal government with few forms of relief and few options for legal immigration, whose levels were last adjusted in 1990. A few commentators even proposed reinterpreting or repealing the US Constitution's Fourteenth Amendment. Since the 2000s, France has felt the impact of almost yearly immigration reforms. Conservative governments accelerated deportations and the fight against irregular immigration and restricted access to the territory, residence permits, naturalization, as well as family reunification for non-EU citizens and even French citizens. Both countries are learning the hard way that their immigration systems cannot ignore many immigrants' effective links to their country, their labor markets, and their own citizens.

**The pathway to citizenship may also hold the key to reducing irregular migration and the politicization of immigration.** In the past year, France and the United States have gone through significant presidential elections, where both winning candidates have promised immigration reform. Both governments have recognized legalization (known as regularization in

Europe) as one necessary tool for reducing irregular migration, residence, and employment, alongside greater legal immigration opportunities, border security, and enforcement of existing laws, such as employer sanctions. Legalization may include a clear path to long-term residence and naturalization. Reforms may also improve legal immigrants' path to long-term residence and citizenship as well as their rights and integration.

At this critical juncture in the reform process, the Migration Policy Group, a Brussels-based think-and-do-tank, collected and analyzed evidence with partners in France and the United States: France Terre d'Asile and the Immigration Policy Center. Firstly, these partners assessed whether the current legal framework sets favorable conditions for the integration of legal immigrants. This evaluation was achieved through an **update of the Migrant Integration Policy Index (MIPEX), a well-established international benchmarking tool ([www.mipex.eu](http://www.mipex.eu))**. These updated MIPEX country profiles are available at the end of this report. Secondly, these partners then reviewed recent reports, statistics, and surveys on their respective countries' pathway to citizenship for unauthorized and legal immigrants and its impact on integration. Contrary to popular perception, the pathway to citizenship in both countries is often long and difficult in practice, with long-term negative effects on immigrants' economic, social, and political participation. The future pathways to American and French citizenship need to avoid the mistakes of the past and learn lessons from around the world. **This report's main research question is: how does the pathway to citizenship affect the lives and integration of newcomers, especially legalized immigrants?** The comparative report tackles this question through six sections on:

1. Legalization programs and mechanisms for unauthorized immigrants
2. Social and economic rights of newcomers
3. State-funded integration support for newcomers
4. Access to long-term or permanent residence
5. Access to citizenship
6. Conclusions on the benefits of naturalization for integration

## 1. Legalization: time-limited programs and on-going mechanisms

*Summary: Since the United States' major time-limited legalization in 1986, policymakers have opted for a tough enforcement-only approach to reducing irregular migration. They also closed off most of the US' on-going legalization mechanisms that act as safety valves for the legal immigration system. Over the past two decades, France had developed a balanced legalization policy including time-limited programs and on-going mechanisms on work, family, and humanitarian grounds. France's previous conservative governments have upset the balance in this system by restricting the on-going mechanisms and abandoning time-limited programs. According to both countries' governments, the time has come for reform.*

### 1.1 United States: Shutting off the safety valves

There are approximately 11 million unauthorized immigrants in the United States. Approximately 60 per cent have lived in the country for over a decade, have U.S. citizen children, and other deep ties to their community. Of the 11 million unauthorized, roughly one million are unauthorized children. In addition, 4.5 million American citizens have at least one unauthorized parent. Within the current US immigration system, however, there is no routine system for recognizing or legalizing the status of such individuals. There have been no changes to the basic system for becoming a lawful permanent resident (LPR) since 1990 (for more, see section 4.2). Without adequate numbers of family and business visas or a temporary worker system keeping pace with demand, large flows of unauthorized immigration came to the United States during the 1990s.

Although the Immigration and Nationality Act contains some provisions for case-by-case determinations for relief from removal for unauthorized immigrants, many of these laws have been revised to a point where few individuals can actually qualify for them. In other cases, such as a form of legalization called "registry," the opportunity to adjust status based solely on time in the country has not been updated for decades—only if you began living in the United States before 1972 would it be possible for you to take advantage of this law.<sup>1</sup> A different provision, **Cancellation of removal**, grants case-by-case relief from deportation

<sup>1</sup> Registry-based legalizations are based on continuous residence for persons arriving before a certain registry date. The last registry-based legalization was 1986 IRCA for those arriving before 1 January 1972 subject to certain conditions. Since then, Congress has not advanced this registry date or passed legislation that would automatically advance it.

for unauthorized immigrants with strong family ties, humanitarian concerns, or contributions to the community. The number of people legalized through cancellation of removal plummeted to 4,000 persons-a-year after 1997, following passage of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). The Act severely restricted these forms of relief by increasing the requirements and imposing numerical caps.<sup>1</sup>

**The United States has not conducted a major legalization program for the past 27 years. The Immigration Reform and Control Act (IRCA) program in 1986 legalized approximately 1.7 million people as part of this general program and 1.3 million as part of the Special Agricultural Worker (SAW) program.** As the counterweight to legalization, however, the 1986 law also imposed mandatory work authorization requirements, for the first time requiring employers to verify the legal work authorization of any employee. Over the next decade, resentment and concern that the scheme for sanctioning employers had failed to stop illegal immigration led to the passage of the more punitive 1996 law, which focused more punishment and deterrence to stop illegal immigration.

Even after the 1996 law tightened relief from removal for unauthorized immigrants, or perhaps in response to it, Congress continued to permit smaller, more targeted legalization programs. **In fact, since 1952, at least 16 acts of Congress have authorized legalization for specific groups who were thought to merit special consideration:**

**More than IRCA: Persons adjusting to lawful permanent residence status through population-specific and registry legalization programs, 1986 to 2009**

<b>Name of program</b>	<b>Population-specific and registry legalization</b>
Nicaraguan Adjustment and Central American Relief Act (NACARA)	67,092
Haitian Refugee Immigration Fairness Act (HRIFA)	30,476
Cuban-Haitian entrants	37,698
Cancellation of removal	247,079
Former H-1 nurses (p accompanying child or spouse)	12,165
Select parolees	100,098
Select registry programs	72,439
Chinese Student Protection Act of October 9, 1992	53,088
Cuban adjustment program	405,787
Non-Cuban spouses or children of Cuban refugees	29,812

Kerwin, Donald (2010) "More than IRCA: US Legalization Programs and the Current Policy Debate," Migration Policy Institute. Calculated from US Department of Justice, Immigration and Naturalization Service, Statistical Yearbook of Immigration Statistics and Naturalization Service, (Washington, DC: US Government Printing Office, various years); US Department of Homeland Security (DHS), Yearbook of Immigration Statistics (Washington, DC: DHS, Office of Immigration Statistics, various years)

These laws have often targeted small groups from specific countries of origin, such as those fleeing violence or civil war in Southeast Asia, Central America, Cuba, Haiti, and the former Soviet Union. For instance, the 1997 Nicaraguan Adjustment and Central American Relief Act (NACARA) permitted some Central Americans and former Soviet bloc refugees to apply for suspension of deportation or cancellation of removal under the more lenient standards in place before 1996. While NACARA did not create a new pathway to citizenship, it allowed individuals to access existing laws under special accommodations. Other efforts to address specific situations do create new programs, for instance for those with temporary protected status or no legal status.

Efforts to address the shortcomings of the 1986 Act and many types of unauthorized people in the country have led to proposals for both major reform and more targeted legalization programs. Roughly every year since 2001, proposals for **comprehensive immigration reform** have included legalization of the unauthorized. Since 2001, the DREAM Act proposal, which would grant lawful permanent residence to many young people brought to the US as children, has fostered its own immigration reform movement, championed by DREAMers, young unauthorized immigrants themselves. In December of 2010, the DREAM Act passed the U. S House of Representatives, but failed to pass a procedural vote necessary for final consideration in the Senate.

The actual size of the population that might be eligible for a legalization program will depend on the legalization requirements themselves. For instance, a legalization program that requires only that an individual be present in the United States on the day of the bill's enactment will have a much broader reach than a program that requires an entry date of one or more years prior to passage of the law. The 1986 IRCA legalization program led to 1.7 million legalizations (94% success rate) through the general legalization and 1.3 million through the Special Agricultural Workers (SAW) program (85% success rate). The best indication of unauthorized immigrants' current interest and ability to legalize is the new temporary program for unauthorized youth, the **Deferred Action for Childhood Arrivals (DACA) program**. Deferred action is an administrative decision to exercise prosecutorial discretion by affirmatively deferring removal actions against an individual. Of the estimated 1.8 million unauthorized immigrants potentially eligible for the DACA program, roughly 936,000 were immediately eligible when the program opened in August 2012. Around 45% had applied by February 2013.<sup>ii</sup>

### 1.2 France: A comprehensive policy thrown off balance

Legalizations are a relatively new tool for managing migration across the world, including in Europe. The EU's REGINE project identified 68 legalizations in Europe between 1973 and 2008.<sup>iii</sup> In most European countries, mechanisms were only created around the turn of the 21<sup>st</sup> century. Often in response to protest movements by immigrants and trade unions, legalizations started in Northern Europe and have then been used most extensively in Southern Europe. Two types of legalizations exist in Europe: time-limited programs (similar to IRCA) and on-going mechanisms (similar to the few recent US mechanisms). Most often, the criteria for legalization in Europe are presence on the territory, no criminal record, and some length of residence. Countries more rarely impose other conditions, such as employment, family ties, health status, or nationality. Additional criteria usually only required for the smaller on-going mechanisms based on de facto long-term residence, humanitarian grounds, or family ties.

**France's previously nuanced policy implemented time-limited and on-going legalizations side-by-side.** Time-limited programs took place in 1973 (work), 1980 (work), 1981-2 (work), 1991 (humanitarian reasons) 1997 (family and humanitarian reasons), and 2006 (parents with two years' residence of children enrolled

in school for one year). Over the past forty years, increases in the irregular immigrant population were often linked to the restriction of legal immigration channels, especially for persons from former French colonies in North and Sub-Saharan Africa. The stoppage of work migration in 1973 led to the first time-limited programs focused on young male workers who could no longer access work permits. In the 1990s, the passage of restrictive asylum and family reunification legislation led to time-limited programs for families and asylum seekers with a strong claim to remain in the country but without a legal channel for entry.<sup>iv</sup> As a result, the criteria shifted over the years from proof of employment to more qualitative humanitarian and social integration criteria.

On-going mechanisms were established under the 1998 *Chevènement* Law based on key provisions of the 1997-8 legalization for family and humanitarian reasons. Family members who fell outside the scope of legal immigration channels (mainly family reunification) obtained the right to remain in France if they have stronger family ties in France than in any other country, based on **Article 8 of the European Convention on Human Rights**. These family criteria were later renamed **'family and personal ties'** and restricted in subsequent legislation. Another on-going mechanism was the legal entitlement to long-term residence (10-year-permit) for **'de facto' long-term residents**. From 1984 to 1993, the criterion was 15 years of residence and then shortened to 10 years from 1998 to 2006.

From 2002 to 2012, the political climate changed under conservative governments that framed irregular migration as a problem of security and migration control. Former president Nicolas Sarkozy turned against time-limited legalizations and restricted the criteria for on-going mechanisms. As Interior Minister in 2006, he conducted the latest time-limited legalization for parents, under pressure from a solidarity movement, *Education without Borders*. Minister Sarkozy then declared his opposition to any 'massive' legalization in France or in Europe, reacting to Spain's 2005 legalization of nearly 600,000 people. As president, he later obtained the promise of all European leaders in the 2008 **'European Pact on Immigration and Asylum'** to limit themselves to case-by-case legalizations for humanitarian or economic

reasons.<sup>2</sup> In France, the on-going mechanisms were restricted in the 2006 *Sarkozy II* law. The 10-year-mechanism was repealed for all but Algerians (whose status is regulated by bilateral agreement) and replaced with 'exceptional' access to residence for 'humanitarian reasons or exceptional grounds.' Under the 2007 *Hortefeux* Law, this on-going mechanism was widened to include work criteria based on a job shortage list. Following strikes of *Sans Papiers* workers and intense lobbying from trade unions, the government further widened these criteria, at least on a temporary basis (July 2010 to March 2011).

The new Socialist government has not come out from under the shadow of Nicholas Sarkozy's restrictionist tone on legalization. Both major parties seem to favor conditional on-going mechanisms (i.e. family, work, and humanitarian grounds) over residence-based or time-limited legalizations. Interior Minister Valls still opposes time-limited legalizations 'due to the economic crisis.' His November 2012 guidelines developed more clear and objective criteria, which, in the end, are as restrictive as or even more restrictive than Sarkozy's.

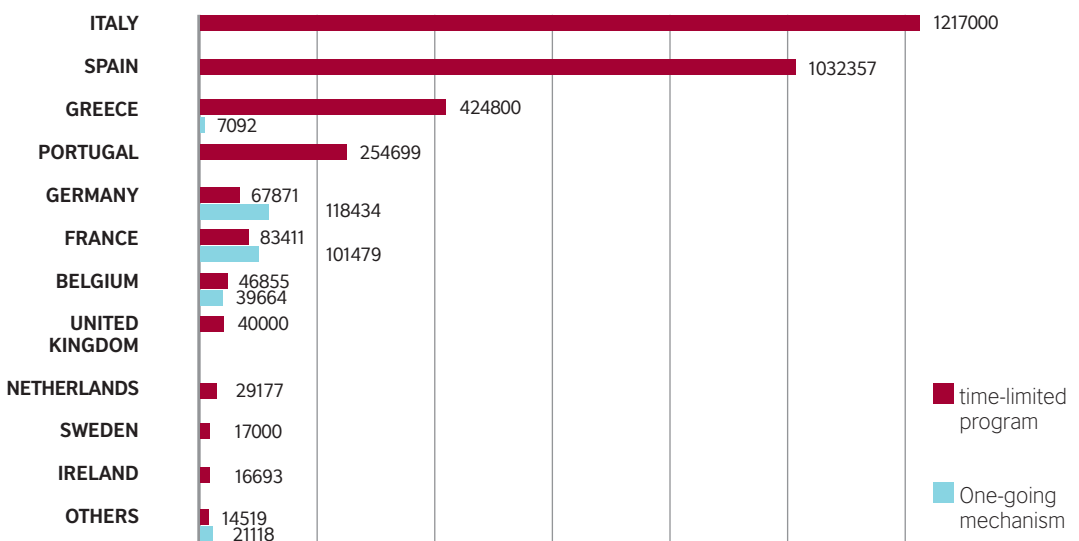
<sup>2</sup> An outright ban on time-limited programs was vocally opposed by Spain and then dropped in the final text. Following this 2008 'Pact', time-limited programs have been launched in Belgium (2009), Italy (2009), and Poland (2011). New legalization mechanisms are also being discussed in the Netherlands, United Kingdom, and southern European countries. The periodic implementation of large-scale mechanisms in Europe demonstrates the need for such safety valves within the legal immigration system as the best long-term solution for many.

Family and personal ties are proven through five years' residence of the parents and three years' schooling of the children, including primary school (*Article L.311-11-7 Ceseda*). Unaccompanied minors can also obtain legal status at age 18 with two years of 'assiduous and serious' studies (*Article L.313-15 Ceseda*). Exceptional access to residence can be granted for workers with five years' residence and proof of long-term work (*Article L.311-14 Ceseda*). The major change in the new government's approach is the focus on the rule of law by limiting the excessive discretion of local authorities (prefectures) in the on-going mechanisms.

### 1.3 Legalization Statistics: what can be learned from France and Europe

Compared to the United States, the 27 EU countries have a much lower unauthorized population, which ranges from 1.9 to 3.8 million in 2008, based on the low-to-medium quality estimates from the EU's CLANDESTINO project.<sup>v</sup> These overall estimates represent less than 1% of the total EU population and between 7 and 13% of the foreign population. Between 1996 and 2007, an estimated **5.5 million people across Europe have legalized**, according to the EU's REGINE project. The largest numbers of legalizations have taken place through time-limited programs benefiting workers in the Southern European countries, which possess the largest estimated unauthorized populations in Europe: Greece, Italy, Portugal, and Spain. Beyond southern Europe, time-limited programs and smaller-scale on-going mechanisms have been used in France, Germany, and Belgium, and, to a lesser extent, in other EU countries.

Estimates of people regularized in Europe, 1996-2007, REGINE



Over the past forty years, France has been home to hundreds of thousands of unauthorized migrants, currently estimated between 350,000 and 500,000. Since 1973, upwards of 500,000 people have been legalized through time-limited and on-going mechanisms:

#### Estimated number of legalizations in France, 1973-2011

##### Time-limited programs

Years	# of Applications	# of Legalizations
1973	40,000	40,000
1981	150,000	131,000
1991	50,000	15,000
1997-8	140,000	80,000
2006	33,538	6,924

##### On-going mechanisms

Years	# of Legalizations
1999-2002	60,000
2007-2011	130,000

#### In France, more immigrants were legalized by on-going mechanisms than time-limited programs.

Conservative politicians tend to create a dichotomy between 'massive' time-limited programs and 'case-by-case' on-going mechanisms. In fact, France has never had a 'general amnesty' without any requirements. Both types of mechanisms are based on specific requirements and an individual assessment. Both have led to both large and small-scale legalizations. On-going mechanisms are important means to address legal gaps not only in France, but also in a few other Northern European countries like Germany and Belgium.

Until recently, legalizations were actually more effective than deportations for reducing the irregular immigrant population in France. Between 2001 and 2006, **the number of legalizations outnumbered the number of deportations**. Under the previous conservative government, the number of immigrants legalized through on-going mechanisms is astoundingly similar year-on-year, around 30,000. Among these mechanisms, the number of legalizations for de facto long-term residents was also surprisingly similar at

3,000 per year. Over the past forty years, time-limited programs have become more restrictive through the introduction of more discretionary requirements. For example, the last time-limited program was quickly closed after the number of applications reached the 30,000 mark. Legalization rates have fallen from 100% in 1973 to 87% in 1981, 30% in 1991, 58-64% in 1997/8, and only 20% in 2006. Not only are refusal rates rising, but also the estimates of the unauthorized population (i.e. not legalized) remain steady.

**Legalization has become one of the main channels for legal immigration in France.** According to France's on-going longitudinal study of legally resident newcomers (ELIPA), nearly one in three newcomers in 2009 was a legalized immigrant. These people are often de facto long-term residents who have had to wait years for legalization. ELIPA reports that recent cohorts of legalized immigrants obtained access to a legal status after on average 7.5 years in the country. 52% of those who legalized after five years or more had already developed work or family ties.

#### 1.4 The arguments for and against legalization in the US and France

The current American immigration debate focuses on three issues: creating a pathway to citizenship for the approximately 11 million unauthorized immigrants in the United States, creating a future legal immigration system that offers the right balance of permanent and temporary immigration options, and adopting immigration enforcement measures that protect the United States without impeding lawful immigration or violating due process protections. Until recently, many viewed the citizenship issue as one of the most contentious parts of an immigration reform package. In fact, public support for legalization and citizenship has actually been fairly high for many years. Support has surged after the November 2012 national elections. While the actual requirements for legalization remain the subject of much debate, it appears that opponents of immigration reform have conceded that mass deportation strategies are not possible. Many also see that the idea of creating a 'second class' status of permanent residence without access to citizenship is unacceptable to most Americans. It is likely that the battle lines may shift to the future of immigration in the United States, with varying proposals to eliminate current family and employment based categories in favor of merit based systems. Efforts to do adopt a so-called point system in 2007, however, were met with significant opposition from family, business, and labor coalitions.



In France, legalizations have been closely linked to elections and major shifts in the general immigration policy. Civil society and immigrant-run movements have been instrumental in the adoption of new legalization mechanisms, starting with the main trade unions in the 1970s and 1980s for work reasons and later including human rights organisations and immigrant/citizens' committees from the *Sans Papiers* movement in the 1990s. Today, the few differences in the legalization debate between left and right are the discourse about 'numbers' and use of discretion. The debate around criteria often comes down to numbers. Conservative politicians argue that time-limited and on-going mechanisms are a reward for unlawful behavior and a pull factor for future unauthorized migration, even if researchers have not found any statistically significant evidence.<sup>vi</sup> The previous government kept down the number of legalizations by restricting the time-limit to apply under the 2006 mechanism and by instructing local authorities on how to use their discretion in the on-going mechanisms. The new Socialist government justifies its new approach not in terms of numbers but in terms of the rule of law. Still, Minister Valls promises not to exceed the legalization rates that were kept steady under the previous conservative government.

### 1.5 Legalizations in practice: what works and what does not

France's major problem in the implementation of legalizations is the **wide discretion of local authorities, leading to unequal treatment**. Discretion will always arise in cases of legalization, where the person rarely has any right to stay in the country. The problem of discretion increases when the legal criteria are vague and subjective and the avenues of appeal are very limited. Internal administrative circulars are rarely published and subject to revision during the procedure, which undermines applicants' trust and willingness to apply.<sup>vii</sup> The application rate in past legalizations has often depended on the transparency of the criteria and the information outreach to the immigrant population. The documentation and interpretations of the requirements were often unclear and inconsistent from one prefecture to another. For example, the use of selective criteria on integration or humanitarian grounds are not well adapted to time-limited legalizations, where authorities do not have the time or resources for an in-depth assessment of an applicant's full life circumstances.<sup>viii</sup> The EU-wide REGINE study also found that legalizations, particularly in Southern Europe, regularly

suffer from weak administrative preparation in terms of limited publicity, long backlogs, overly strict requirements, and subjective interpretations.

While the 1986 law successfully brought roughly 3 million people into the United States legal immigration system, major administrative obstacles arose along the way. **Firstly, a more inclusive program that had fewer eligibility restrictions would have been more effective at reducing the irregular population.**

Instead, the estimated unauthorized population only fell by half between 1986 and 1988, while thousands of 'mixed-status' families were created and persist to this day.<sup>ix</sup> The IRCA regulations were implemented too quickly, without sufficient attention to the challenges for eligible immigrants to apply. Publicity for IRCA was late, ad hoc, and inadequate among some immigrant groups, especially non-Hispanic immigrants. The documentation required for SAW was too difficult for many eligible applicants working in informal sectors, according to the Congressional Research Service.<sup>x</sup> Overly burdensome evidentiary requirements discouraged unscrupulous employers, especially from the agricultural sector, from verifying their employee's previous work status, which led in part to allegations of fraudulent applications. **Secondly, a more forward-thinking law would have also addressed the regulation of future legal immigration flows.**

In particular, mechanisms for regulating temporary workers were not addressed in 1986, leading to large flows of undocumented immigrants during the economic boom of the 1990s. Failure to create more flexible legal immigration numbers also contributed to growing backlogs in both employment and family based immigration.<sup>xi</sup> Taking into account both the need for flexibility, the strong support for family unification, and the competitive need for new worker programs will all be critical in avoiding the mistakes of the past.

Although there appears to be firm support among the American public for a legalization program, many of the practical details are likely to generate debate in both the United States Senate and House of Representatives. Issues such as whether an individual with minor criminal convictions will be eligible to apply, whether material contained in applications will be confidential, how costly the program will be for applicants in terms of both fees and possible fines, and what types of administrative or judicial review will exist for denied applications are all likely to be on the table.

### 1.6 An effective legalization pays off

Effective access to a legal status has long-term positive impacts on social and economic integration. If immigrants are granted secure residence permits independent of their employers, legalization often has a positive effect on the fight against irregular work and the informal economy. French research on legalization programs has generally analyzed the procedural outcomes (i.e. description of population legalized) but not its effects (i.e. renewal of status, employment, social integration). One small study of the effects (Simonin et al. 2001) interviewed 100 participants and surveyed an additional 207 legalized during the 1997-8 legalization for family and humanitarian reasons. Two-to-three-years later, working immigrants, especially those who changed employers, saw major improvements in the quality of their job in terms of their wage, working hours, regularity of payment, and the duration of their contract. All surveyed legalized immigrants had been able to renew their permits, which is an indicator of a sustainable legalization policy.

Several American studies have identified positive effects of the 1986 IRCA legalization on immigrants' socio-economic integration. Kossoudij 2009 found that the newly acquired right to work increased the wages of legalized men and, to a lesser extent, women.<sup>xiii</sup> These earnings translated into greater tax revenues for federal, state, and local governments as well as fewer remittances to countries of origin<sup>xiii</sup> and greater consumer spending in the United States, to the benefit of other American workers. Rob Paral et al. 2011 studied the period from 1990 and 2006 and found that IRCA-legalized immigrants experienced major drops in their poverty rate and dependence on public assistance. They also experienced major gains in their wages, careers, educational attainment, and home ownership rates.<sup>xiv</sup> Baker 2011 finds that IRCA beneficiaries' greater job opportunities decreased their crime rates, especially for property crimes.<sup>xv</sup> Given these findings, new reports are currently projecting the impacts of different legalization models on wages, tax revenues, consumer spending, and job creation.<sup>xvi</sup>

## 2. The rights of temporary residents and the effects on social inclusion

*Summary: France tends to grant equal social & education rights to temporary and long-term residents, but restricts their access to the labour market, public sector and various private sector jobs, and the recognition of foreign-qualifications. In the United States, temporary workers can work in nearly all types of jobs. However, equal access to the job market is only guaranteed for lawful permanent residents. Access to public benefits and assistance is also largely restricted to lawful permanent residence with at least five years' residence.*

### 2.1 Social gaps in the US and economic gaps in France

Non-US residents with the right to work in the country can work in nearly all jobs and sectors since US citizenship is only required for most federal jobs or positions requiring security clearance. However, only lawful permanent residents have equal access to the job market as American citizens. Temporary workers do not have the same access. Temporary workers are often tied to a specific job in a specific industry for a limited stay in the US. Highly-skilled workers under the H1-B program who want to switch jobs would need new certifications and face a longer wait to lawful permanent residence, due to differences in backlogs. Reunited family members generally have the same right to work as their sponsor, which means that the spouses of temporary workers may not be entitled to work authorization.

Access to public benefits is very limited in the first five years of legal residence and only available in emergency situations. Only a few programs are available for all legal residents: Head Start, the National School Lunch Program, and the Women, Infants and Children Nutrition Program (WIC). Refugees are generally eligible for public benefits if they meet the requirements. Access to Medicaid and Medicare, the programs covering medical services for low-income people and the elderly, has been restricted since 1996 to lawful permanent residents who have at least five years' legal residence and meet certain conditions.<sup>xvii</sup> Since 2009, states have the ability to restore Medicaid to children and pregnant women.<sup>xviii</sup> Non-US citizens also have restricted access to the Food Stamp Program, Temporary Assistance for Needy Families



(TANF), and Assistance for Disabled Immigrants. This limited access depends on people's immigration status, duration of residence, and income, although access and eligibility varies from state-to-state. Since 2003, the children of LPRs are eligible for the Supplemental Nutrition Assistance Program (SNAP). The 2010 Patient Protection and Affordable Care Act fully covers lawful permanent residents after five years' residence. Before then, lawful permanent residents have access to the health insurance exchanges and premium and cost-sharing subsidies.

In some cases, access to benefits is possible for persons with other types of status, such as deferred action. In a disturbing move, the Obama administration announced in 2012 that beneficiaries of the recent Deferred Action for Childhood Arrivals (DACA) would be excluded from the Affordable Care Act, even though other immigrants with deferred action may be able to participate. Supporters of equal socio-economic rights for all residents use public health and safety arguments that inclusion ensures a healthier future for all. Opponents argue that taxpayers should not have to shoulder any extra costs for non-US citizens.

In France, foreigners who obtain a legal status also obtain the same social rights as citizens of France and other EU countries. Temporary and permanent residents are legally entitled to nearly all social and family allowances, health care, and higher education. To restrict access to public benefits, the French parliament has limited room for maneuver, subject to judicial oversight. In 1993, France's Constitutional Court set down this guiding principle of equality: **"foreigners enjoy rights to social care as long as they live on French territory in a stable and regular manner."** Proposals for restrictions rarely make it into Parliament because they would obviously fail before the courts. In 2011, France's Supreme Administrative Court followed the equality principle by striking down a 2007 decree that denied to legal residents the enforceable right to housing in their first two years. As a result, the debate is more focused on unauthorized migrants' access to rights, such as medical care.

Notwithstanding this guiding principle of equality, newcomers and foreigners are still denied a few social rights and access to a large part of the French job market. In their first five years in France, foreigners on temporary non-humanitarian permits cannot access the guaranteed minimum income (*revenue de solidarité active*, RSA, no equivalent in the US). Most importantly, **non-EU citizens are denied access**

**to approximately 6 million jobs in France**, due to requirements for French citizenship (e.g. the public sector) or for French qualifications or exams (e.g. regulated professions). Removing these restrictions is as of yet not on the agenda of the current government.

## 2.2. The benefits of benefits

The use of health and social benefits varies significantly not only between immigrants in France and the United States, but also between the French and Americans. In France, foreign-born immigrants are no more likely to generally use public benefits than a comparable group of native-born French people.<sup>xx</sup> Unemployed residents born outside the EU are just as likely to receive unemployment benefits compared to unemployed French people with similar characteristics. Unemployed residents born in other EU countries are actually less likely to receive them. Non-EU-born families are only 2.5% more likely to receive family and child benefits than a similar French family. Given non-US citizens' restricted access to benefits, it is not surprising that the use of benefits like Medicaid, SNAP, cash assistance, and social security is much lower in terms of rates and amounts among low-income foreign-children and adults than comparable low-income native-born Americans (families living below 200% of poverty line).<sup>xx</sup> In France, people of immigrant and native background have a similar uptake of healthcare services<sup>xxi</sup> within the French healthcare system, which is well assessed internationally.<sup>xxii</sup> While in the United States, half of all foreign citizens were uninsured in 2007, compared to a quarter of US-born citizens and 30% of naturalized citizens. The share of uninsured foreign children (around 34%) is three times higher than for US-born children. Insured immigrants had lower medical expenses than insured US-born citizens, even when controlling for the difference in insurance coverage. Moreover, foreign citizens are also significantly less likely to use all types of healthcare, even the emergency room.<sup>xxiii</sup>

### Safety nets are effective means to fight poverty

for children in immigrant and non-immigrant families. Smeeding et al. 2009 find that the receipt of social benefits halves the share of children living in poverty in both immigrant and native-born families in France and Scandinavian countries, where all types of immigrants generally have equal access to benefits. In the United States, the anti-poverty effect of social benefits was small for native families and almost none for immigrant families because generally the receipt of benefits in the US is insignificant compared to other rich countries. The percentage of people reporting unmet

medical needs is much lower among the foreign- and native-born in France than among the foreign-born or the US-born in the United States.<sup>xxiv</sup> Switching from health to education, international indicators also show higher and more equal rates of preschool attendance among the children of foreign- and native-born in France than in the US.<sup>xxv</sup> One of the few policies guaranteeing rights for undocumented immigrants—in-state tuition in several states—has a clear positive effect on educational outcomes. In-state tuition has increased the enrolment of Hispanic non-citizens in the states granting this right, without affecting most other students' tuition, fees, financial aid, or indebtedness.<sup>xxvi</sup> According to surveyed experts, implementing in-state tuition has negligible costs. In fact, it increases school revenues by increasing enrolment and therefore the overall tuition fees.<sup>xxvii</sup>

### 3. Targeted investments in integration: are they worth the effort?

*Summary: France has recently created free targeted programs on language, civics, and employment. While these programs are welcome improvements, debates arise about their objectives, implementation, and effectiveness. In comparison to other major countries of immigration, the United States has very few targeted integration programs, mostly for resettled refugees, applicants for naturalization, and residents in a few proactive states. The need for national and state integration policies will be even greater with a possible legalization as well as future programs for greater legal immigration. Future legal residents will need assistance on the pathway to legal permanent residence and citizenship.*

#### 3.1 Can the US be successful at integration without an integration policy?

In comparison to Australia, Canada, and many immigrant destinations in Europe, **the United States has very few targeted programs to assist newcomers** (e.g. language, civics, employment, and housing). Since the US lacks a coherent national immigration policy, it is not surprising that country also lacks developed integration policies. Today, resettled refugees are the only category who benefit from a dedicated integration policy through government agencies and NGOs, coordinated by the Office of Refugee Resettlement in the US Department of Health and Human Services. Some one-stop career

centers include English-as-a-Second-Language (ESL) and job skills trainings for immigrants, depending on immigration status and income. The US Citizenship and Immigration Services' Office of Citizenship, which was created as part of the Department of Homeland Security in 2003, has supported naturalization materials and language/civic courses, notwithstanding recent federal budget cuts (see MIPEX profile) In a few states, recently developed New Americans Initiatives and Offices have improved access to language, civic, and employment training. These proactive states are usually the traditional destinations for immigrants (e.g. Illinois, Massachusetts, Maryland, New York, and Washington). **Overall, the vast majority of legal immigrants benefit from a few scattered federally-funded programs on learning English and workforce development.**

In the absence of federal or state integration policies,<sup>xxviii</sup> families and immigrant communities have played the primary role of integrating new Americans, along with strong anti-discrimination laws (see MIPEX profile), the labour market, and public education.<sup>xxix</sup> Unfortunately, the economic recession and state budget cuts have seriously undermined access to the labour market and public education for underprivileged groups, especially minorities.

The possibility of legalization for the 11 million undocumented makes the need for an integration strategy even more apparent. After the 1986 IRCA legalization, English and civics training became more important for the US states. Beneficiaries of the general legalization program (not SAW) were required to complete either English/civics courses or a test in order to gain lawful permanent residence (and then be exempt from the test for naturalization). Access to English/civics courses improved because the authors of IRCA saw the benefits of helping legalized immigrants with the tools that they needed. States were required and generally able to provide these courses on time, thanks to IRCA's 4 billion dollars under the State Legalization Impact Assistance Grant (SLIAG) as well as funds from IRCA beneficiaries' application fees for permanent residence. Under the current immigration system, the limited assistance available focuses on lawful permanent residence and their acquisition of US citizenship. The new generation of integration efforts would need to focus on legalized immigrants with a 'provisional' status. As under IRCA, many on the pathway to citizenship would need support to maintain their status, become lawful permanent residents, and eventually become citizens.

### 3.2 The French Welcoming and Integration

#### **Contract: useful as a carrot or as a stick?**

For non-EU newcomers, France has recently created free targeted language & civics programmes (**Contrat d'accueil et d'intégration**) and a professional assessment (e.g. **Bilan des compétences professionnelles**). The contract has been compulsory since 2007 for all adult newcomers in France, except for EU and EEA nationals, intra-company transfers, and immigrants granted with a 'competence and skills' permit, and a few other groups. The following courses are delivered as part of the contract by the French Office for Immigration and Integration (OFII): a civic course (6 hours) on French institutions, republican values and political organization; a session about 'life in France' (6 hours) on public services in France; and French classes (up to 400 hours) if deemed necessary. A professional assessment has been provided since December 2008 to all beneficiaries of the contract, with the exception of immigrants who are already in a job or not looking for a job. Previous legalizations have included specific social accompanying measures for legalized immigrants, such as the 1997-1998 program. A needs-assessment was conducted among legalized immigrants and sent to local social services. The greatest demand was for housing, workforce development, employment and to a lesser degree French courses and social security. Social services were obligated to develop specific accompanying measures, report regularly to the employment ministry, and inform immigrants about their social rights.<sup>xxx</sup> Since legalized immigrants contributed to these measures through the payment of fees, the employment ministry anticipated no major costs.

One on-going debate in Europe is whether obligatory language or civic courses are proactive measures to facilitate integration or coercive conditions to restrict rights. Under the previous government, the CAI became a requirement for the renewal of their permits, access to permanent residence, and naturalisation. The current government is returning to the original official discourse that the CAI should be an effective tool to improve newcomers' skills and knowledge of the French language, society, and labour market.

The major problem in the implementation of the CAI is that many foreigners do not get access to the language support that they need. Government statistics show that only 24% of non-EU newcomers in 2011 were enrolled in a French course. Due to insufficient state funding, **even people who speak very little French are considered**

**as French-speakers** and excluded from the courses. Data from 2009 shows that 34% of newcomers with weak French knowledge and 80% with some French knowledge were not offered French courses, often because their origins in Francophone countries were mistakenly taken as a proxy for fluency in French.<sup>xxxi</sup> Beyond issues of enrollment, participants in the program may not receive enough courses to obtain the level of fluency necessary for naturalisation, higher education, or skilled jobs. For example, the percentage of CAI participants who felt uncomfortable with French fell from 27% in their first year in the program to 18% in their second year. The unemployment rate among CAI participants remains high after two years (24%). In addition, the courses suffer from a significant drop-out rate of approximately 20%.

Problems with the access and offer also reduce the effectiveness of the civic and labour market orientation programmes. While almost 100% of surveyed newcomers in 2009 participate in the initial civic integration training, but only 30% participate in the 'Life in France' training. In 2011, 59% of newcomers obtained a labor market orientation. This gap arises because the program excludes several categories of immigrants, most notably people with employment, this despite the disproportionate rate of under-employment and over-qualification among non-EU immigrants. Across these programs, the content is often too complicated (e.g. what is secularism?) to be explained to newcomers in French and in such a short time (e.g. total 6 hours in one day), even with the help of interpreters. These trainings are done in immigrants' native languages in other EU countries such as neighboring Belgium.

While newcomers are reportedly satisfied with the trainings overall, **robust evaluation is necessary** of their effect on immigrants' linguistic and socio-economic integration. According to the 2011 Immigrant Citizens Survey, nearly half the non-EU immigrants surveyed in Lyon and Paris had participated in some type of French course.<sup>xxvii</sup> Most participants in the European cities studies were overwhelmingly positive about the course's effects on their language knowledge and involvement in society. ELIPA respondents in 2009 hoped that signing the CAI would simplify the administrative procedure to renew their permits, learn French, and obtain French citizenship. Just a slight minority thought that the CAI would help them find a job or decent housing. Just around half the participants in the 'Professional Skills Assessment' found it helpful to find a job or information

on training, change sectors, consider retraining, or obtain the recognition of their foreign qualifications.<sup>xxxiii</sup> Participants thought the 'Life in France' training was more helpful to know about their rights and everyday life in France (over 75%) than it was to find a job, find decent housing, or enroll their children in school.

## 4. A long path to permanent residence is a wrong turn for integration

*Summary: The legal requirements for long-term residents significantly influence whether or not immigrants can settle permanently in the country. In France, eligibility for long-term residence (carte resident de 10 ans) has been restricted over the past decade to the point that long-term residence, which was once the norm among non-EU foreigners, has now become the exception. In the United States, lawful permanent residence is the rule for a few and an exception for the rest. Currently, temporary workers have virtually no independent way to petition to legally settle in the country, except through the limited family reunification and permanent work immigration processes.*

### 4.1 Keeping legalized immigrants on track

The American debate over the fate of the 11 million unauthorized immigrants has dramatically shifted since the November 2012 national elections, in which Hispanic and Asian voters played a decisive role in returning President Barack Obama to the White House. Post election polls found that for many voters, especially Hispanics, immigration had become a key barometer for assessing a candidate. Almost immediately after the election, many conservatives who had opposed legalization as "amnesty," or rewarding unauthorized immigrants for breaking the immigration laws, acknowledged that perhaps the time had come to pass immigration reform. Although some earlier proposals had suggested allowing unauthorized immigrants to become permanent residents without the right to apply for citizenship, the impact of the 2012 elections appears to have placed the idea of any kind of "second class" legal status off the table.

The current debate largely focuses on whether it is necessary to create a special "path" to citizenship for unauthorized immigrants or whether existing laws and procedures can be expanded and tweaked to accommodate new applications. In all likelihood, however, based on past proposals, any legalization

program would involve a registration, including criminal and security background checks, leading to a provisional legal status for five-to-eight years. After that period, provisional legal residents would be eligible to apply for lawful permanent residence, at which time they would be accorded the same rights and obligations of any other lawful permanent resident, including the option of eventually applying for citizenship. Until then, immigrants could likely lose their provisional legal status for any immigration or criminal violations, as laid out in future eligibility criteria. Under IRCA, legalized immigrants became temporary residents and then became eligible to apply for lawful permanent residence after 18 months and acquisition of basic English and civics knowledge,<sup>3</sup> which is normally only required for naturalization.

In France, like most European countries, the ordinary path to citizenship for most newcomers generally requires the renewal of temporary permits, the acquisition of long-term residence, and then the acquisition of citizenship through some form of naturalization. Most ordinary non-EU citizen newcomers receive temporary permits that are renewed so long as the original conditions are met. Most non-EU citizens must then wait several years and fulfill several conditions before they can apply for EU or national long-term residence permits. Long-term residence permits are permanent in countries like Germany, the Nordic countries, or the United Kingdom. Others are renewable (e.g. every ten years in France). Applicants have the *right* to an EU long-term residence permit if they meet all the legal requirements.<sup>4</sup>

<sup>3</sup> The relevant provision of the 1986 IRCA law "directs the Attorney General to adjust the status of temporary resident aliens to permanent resident if the alien: (1) applies during the one-year period beginning with the 19th month following the grant of temporary resident status; (2) has established continuous residence in the United States since the grant of temporary resident status; (3) is otherwise admissible and has not been convicted of a felony or three or more misdemeanors committed in the United States; and (4) either meets the minimum requirements for an understanding of English and a knowledge of American history and government, or demonstrates the satisfactory pursuit of a course of study in these subjects." (Emphasis added). Note that this provision also authorizes an exemption from the language and history requirement for individuals 65 years of age or older.)

<sup>4</sup> Authorities in most EU countries must decide on the long-term residence application within six months and then deliver the permit, in conformity with the legal procedural time limits that EU countries agreed in European Union Law (Directive 2003/109/EC).

In a few countries (e.g. Germany, Netherlands, Sweden), first generation adults also have the *right* to naturalization if they meet all the legal requirements.

For both long-term residence and naturalization, the legal requirements differ significantly across Europe, from North to South and East to West. A slight positive relationship emerges between the country's specific legal requirements (as measured by MIPEX) and the share of foreigners with long-term residence or citizenship.<sup>xxxiv</sup> The more inclusive the country's long-term residence requirements, the more long-term residents there are among non-EU foreigners. The more restrictive the naturalization requirements, the more remain long-term residents. The more inclusive the naturalization requirements, the more non-EU foreigners become citizens, especially newcomers from less developed countries.<sup>xxxv</sup>

The EU's Statistical Agency Eurostat finds that obstacles in the naturalisation policy (as measured in MIPEX) explain 50% of the variation in EU countries' naturalisation rates.<sup>xxxvi</sup> **Policies strongly determine not only whether immigrants become long-term residents, but also whether foreigners ultimately become citizens.**

**France, like most European countries, puts legalized immigrants on the same track to long-term residence and citizenship as newcomers.** This approach is based on the assumption that granting temporary permits means that legalized immigrants do not receive any 'special treatment' compared to newcomers who obtain their first legal residence permit in the same year. That said, this interpretation of 'special treatment' ignores the fact that **many legalized immigrants are already de facto long-term residents** with more than five years' residence. Analysis of the 2011 Immigrant Citizens Survey in 15 European cities finds that legalized immigrants tend to have a longer wait to long-term residence and citizenship than other categories of legal immigrants, measured from the moment they arrived in the country until the moment they apply.

**Clear expectations and a streamlined process is an important factor for guaranteeing the success of legalization programs.** The use of temporary permits makes the legalization provisional until immigrants acquire permanent residence or citizenship. For most countries and categories of immigrants, temporary permits are only renewed so long as the original requirements are still met (i.e. no changes in their employment situation, family ties, or the

country of origin). What's more, the requirements for renewal or acquisition of long-term residence are increasingly demanding in France as in several Western European countries. Demanding requirements have a greater effect on vulnerable groups, including legalized immigrants, who may then fall back into irregularity. Immigrants may not be able to meet these requirements through no fault of their own, due to the economic recession, the bankruptcy of their employer, divorce, or widowhood. The UN's International Labor Organization has found frequent relapses into irregularity in some of Southern Europe's first legalization programs, which granted temporary statuses.<sup>xxxvii</sup> In the US, important numbers of IRCA legalized immigrants 'dropped out' of the program before receiving lawful permanent residence: by 2001, 12% from the general program and even more from the SAW program.<sup>xxxviii</sup> US government statistics suggest that Mexican-born IRCA immigrants were slightly less likely to naturalize by 2001 than other lawful permanent residents from Mexico (27% vs. 35%).<sup>xxxix</sup> Naturalization rates were highest among pre-1982 visa over-stayers, followed by pre-1982 illegal entrants, and then agricultural workers (SAW program). An insecure path to long-term residence and citizenship may make legalization less effective over the long-term for reducing irregular residence and employment, depending on the changing circumstances of the person and the country.

#### **4.2 The streets are not paved with Green Cards: when the exception is the only real option**

Under the current US legal immigration system<sup>xl</sup>, permanent legal immigration is limited to a few categories of applicants, is made more complicated by caps on the number of immigrants who may be admitted annually from any given country, and is subject to numerous delays and backlogs because the demand far exceeds the supply of available visas. 480,000 family-based visas are allocated every year for American citizens and lawful permanent residents to reunite with certain family members in the United States. 140,000 visas are allocated for permanent employment-based immigration. 55,000 green cards are available annually through the Diversity Visa program for people from countries with low immigration rates to the U.S. Refugees are eligible to become lawful permanent residents one year after receiving asylum or arriving in the US as a recognized refugee.

While opponents of immigration reform often argue that people should simply wait in line, there is no line for most immigrants to enter.<sup>xli</sup> The number of green cards is insufficient for medium- and highly skilled workers and minimal for low-skilled workers (only 5,000 per year). Same sex couples are not entitled to the same rights to petition for partners and other family members. Other categories of immigrants, such as asylees or diversity visa holders, are aimed at specific populations (those fleeing persecution for the former, or immigrants from countries that are under-represented in the United States for the latter). Those that are relatives of US citizens or lawful permanent residents often face years or decades of waiting time for a visa. Given the imbalance between the supply of and demand for immigrant visas, the backlog is large and long, especially for sending countries with large numbers of aspiring immigrants (e.g. Mexico, the Philippines, China, India).<sup>xlii</sup> The United States Congress set the current number of family and employment based visas for lawful permanent residents in 1990; the law does not provide mechanisms for annual adjustments or increases based on backlogs, demand, or changes in global migration patterns. This rigid statutory framework has contributed significantly to the current immigration dilemma.

The lack of available visas in the employment based category has given rise to numerous legislative proposals. For example, unlike other major countries of immigration, the United States does not grant permanent residence to entrepreneurs or graduates of its universities in the **STEM fields (science, technology, engineering, and mathematics)**. These obstacles persist, even though immigrants in the US are proven job-creators in the STEM fields,<sup>xliii</sup> over-represented among applicants for patents<sup>xliiv</sup> and founders of not only new businesses, but even Fortune 500 companies.<sup>xlv</sup> Numerous pieces of legislation have proposed awarding lawful permanent residence to STEM graduates upon graduation or increasing the number of visas available in these categories. Some proposals have done so by eliminating visas from other categories, such as the diversity visa, while others have simply increased the total number of visas available. One of the most anticipated components of comprehensive immigration reform legislation will be the effort to address the green card shortage. Will Congress continue to treat the number of visas available as finite and static, or will it allow for increases based on need and demand, and will it do so without

undermining other American goals, such as family unification?

#### 4.3 Long-term residence in France: when the rule becomes the exception

In France, the large majority of newcomers want to settle there permanently, according to the ELIPA survey. The 2011 Immigrant Citizens Survey also found that most surveyed non-EU immigrants across European cities want to become long-term residents and have done so in Lyon and Paris after five-or-six years in the country. Furthermore, current or former long-term residents in the cities in France, Belgium, Germany, and Portugal felt that the status helped them feel more settled and improve their job and educational situation. Indeed, the French government created the national long-term residence permit in the 1980s with the aim to secure immigrants' residence and integration prospects.

Long-term residence in France has been slowly transformed into a mechanism to regulate immigration and integration under conservative governments since 2000. Access to long-term residence has been complicated by the multiplication of the number of temporary statuses and the increasing differentiation in the rights attached. Citing perceptions that France has too many foreigners and integration problems, the 2006 *Sarkozy II* Law introduced an integration requirement for long-term residence and removed reunited families' automatic access to the status. Under the current system, non-EU immigrants automatically become long-term residents upon arrival: refugees upon recognition, French citizens' dependent parents and children, victims of work-related accidents, and members of the French foreign legion. Stateless persons must wait an additional three years. Other non-EU residents must complete longer waiting periods, additional integration and income requirements, and a discretionary procedure. The period ranges from three years (beneficiaries of family reunification, spouses of French citizens, parents of French children) to five years (all other legal residents). Since the 2006 law, government statistics show that fewer family members have qualified to reunite in France or become long-term residents. Immigrant Citizens Survey data shows that the average time until immigrants apply for long-term residence has risen in France from around four years in the 1980s to six years since the mid-2000s. The applicants who take longer to apply also complain more about problems with documentation and discretion during the procedure.



The requirements and discourse under the previous conservative governments have affected the way local prefectures use their discretion, leading to greater obstacles and unequal treatment. **Despite some changes, the major prefectures have not undertaken the necessary structural reforms to address the poor reception facilities.** An investigation by the NGO Cimade revealed hours-long lines, unnecessary requests for complicated documentation, delays in the delivery of permits, unequal treatment due to inconsistent interpretations of vague and subjective requirements, limited options for mediation or hierarchical review, a culture of impunity and a lack of administrative capacity and training.<sup>XLVI</sup> For example, the Immigrant Citizens Survey found that 30% of applicants for long-term residents in Paris and Lyon felt that the authorities were arbitrary and unfair. In 2009, one third of surveyed newcomers in ELIPA said that they were not well received at the prefectures. Many had to wait too long to enter the prefecture (54%) or talk to frontline services (47%). Around one in three had to provide difficult documentation (32%), even documents that were not legally required (23%). These procedures are often most difficult for vulnerable groups, such as legalized immigrants. For example, foreigners legalized for personal and family reasons were more likely to complain in the ELIPA study about difficulties with the local authorities under the previous conservative government. The new Socialist Interior Minister Valls has promised a legislative proposal by spring 2013 to create an intermediary multiannual permit as means to improve immigrants' security and integration and take pressure off the prefectures.

## 5. Why countries of permanent immigration should promote naturalization

*Summary: The percentage of foreign-born adults who become citizens is relatively similar in France (54%) and the United States (49%).<sup>XLVII</sup> France and the United States have a longstanding tradition of naturalization and, on the face of it, similar legal requirements: five years' residence, the option of dual nationality, and an interview testing language and citizenship knowledge, a discretionary procedure, and decision-making at regional level applying national standards. However, France's previous conservative government changed its discourse on promoting naturalisation and used its powers to disrupt the procedure. A procedure once seen as inclusive is now seen as a tool for restricting*

*immigration. Compared to France, the United States has done more to promote naturalisation among immigrants through the Office of Citizenship's promotional materials and NGO grants, despite federal budget cuts.*

### 5.1 The US naturalization process: Dreams fulfilled and dreams deferred

**Recent studies suggest that most lawful permanent residents want to become U.S. citizens.** In 2011, the share of naturalised American citizens among the foreign-born reached to its highest level in three decades.<sup>XLVIII</sup> This dramatic increase in naturalizations since the 1990s is due to the eligibility of the immigrants legalized under the 1986 IRCA law (peaking around 1996), 1994 and 1996 laws restricting foreigners' access to public benefits,<sup>XLIX</sup> a new requirement to replace all green cards issued before 1977,<sup>L</sup> and greater tolerance of dual nationality by the US' major sending countries in the 1990s.

Despite these rising naturalization rates, substantial numbers of eligible lawful permanent residents have not yet applied to become American citizens. Over the last four decades, naturalized citizens tended to apply after six-to-nine years as LPRs<sup>LI</sup> (plus several more years for those arriving as temporary or unauthorized immigrants). The average number of years as LPR jumps up to ten-to-fourteen years for immigrants coming from North America (Mexico & Canada). **A recent study by the Pew Hispanic Center found that 93% of Hispanic legal permanent residents would naturalize if they could. The nationwide survey found that the citizenship test was a barrier for many eligible Hispanic LPRs.** Personal reasons, including lack of English proficiency, were identified as the major obstacle for 26%, particularly the poor, less educated, and, to a certain extent, women and parents raising children. 18% of those surveyed, particularly the elderly or poor, said that they had not yet naturalized because of the high costs<sup>LII</sup> and other administrative obstacles. In anticipation of the **rise in the total naturalization fee to \$680 in 2007**, the number of applications rose dramatically. As a result, the number of naturalizations rose from 660,447 in 2007 to 1,046,539 in 2008 and then fell to 743,715 in 2009.

Over the past decade, the US Citizenship and Immigration Services (USCIS)' Office of Citizenship has cooperated with NGOs to promote naturalization. Since 2009, the Office provides detailed and easy-to-understand web-based information for applicants,

teachers, and organizations ([www.uscis.gov/portal/site/uscis/citizenship](http://www.uscis.gov/portal/site/uscis/citizenship)). This information covers the naturalization procedure and benefits, the list of questions and procedure for the citizenship interview and language test, free preparation materials, and links to assistance and information sessions in different local communities. In 2011, the Office launched its first nationwide naturalization campaign, including paid advertisements, new free print and web resources. The campaign targeted states with high immigrant populations and explained the naturalization procedure and benefits. Notwithstanding recent federal budget cuts, the Office has previously provided grants for NGOs' work on naturalization and free English/civics courses. Campaigns and initiatives have also been launched by the US Conference of Mayors and by leading immigrant-support organizations (e.g. National Partnership for New Americans, New Americans Campaign, 'Ya Es Hora', and CitizenshipWorks).

## 5.2 Promoting French citizenship: a tradition broken, but a reform promised

Similar to US findings with Hispanic immigrants, **the vast majority of non-EU citizens want to become citizens** in France as well as in other European countries surveyed in the Immigrant Citizens Survey. However, **immigrants on average take 14 years to become French citizens**, according to 2008 EU-wide survey data. In reality, France has the longest path to citizenship in Western Europe, only surpassed by the Grand Duchy of Luxembourg and notoriously restrictive Switzerland.<sup>5</sup> The fact that only 60% had naturalized after 20+ years' residence raises concerns over long-term social exclusion.

Although the legal requirements in France seem similar to the US;<sup>5</sup> they are actually more restrictive than in most Western European countries or in traditional countries of immigration like Australia, Canada, and the US (see MIPEX profile). For example, **naturalization is conditional upon a person's employment situation**, unlike in most traditional countries of immigration but unfortunately as in several Western European countries. The French language and civic requirements have also been made more difficult under the previous government's 2011 immigration law. With very few legal exemptions, applicants have to provide a professional certificate of their knowledge of French at B1 level of

the Common European Framework of Reference for Languages. They then had to pass a multiple-choice test on French history and culture. Although this test has been abolished by the new government in 2012, these questions may be used in the 'assimilation' interview, whose content is not known.

These problems are less due to the legal requirements themselves than to the state's wide discretion in their interpretation. The actual documentation required is more complicated in France than in most other European countries, including documents and criminal records from abroad, several years' employment records, and very few exemptions for vulnerable groups.<sup>LV</sup> The requirements and exemptions remain rather unclear and discretionary. The internal guidelines are not always public, while other requirements are inherently subjective. The Immigrant Citizens Survey found that 53% of applicants for naturalisation in Lyon and Paris had problems in the procedure. 30% felt that authorities could do whatever they wanted, while around 20% had problems obtaining the required documents. A government-sponsored survey of 500 successful applicants also found that around 20% needed help in the procedure and complained most about the assimilation interview, the criteria for the residence requirement, and the duration of the procedure. The discretion of local prefectures has only been enhanced through the 'de-concentration' process launched in July 2010, whereby they now have the power to refuse or delay applications without a decision by the Ministry in charge of citizenship, currently the Ministry of Internal Affairs. A forthcoming administrative evaluation (IGA) will analyse the effects of de-concentration on the application of the law.

At the end of its mandate, the previous government adopted a restrictive internal policy on naturalisation that exacerbated the major problems of implementation in the procedure. French citizenship was traditionally seen as an integrative force in society. The French political discourse on integration has attached significant importance to the symbolic act of foreigners choosing to become French citizens. In recent years, the state more actively promoted naturalization through free application procedure, information services, and citizenship ceremonies. Then in 2011 and 2012, the previous Interior minister Guéant extended the targets of his tough talk on reducing the numbers of immigrants in France from not only foreign workers and the unauthorized, but also to naturalisation:

<sup>5</sup> It should be noted that France does have some more favourable special naturalization procedures for refugees, foreigners educated in France, and persons from Francophone countries and families.



*"[Naturalization] is the consecration, for those who want it, of the end of their integration process and of their assimilation into our society. For this reason, we are raising the level of French knowledge required to acquire nationality... We must always be vigilant. You cannot become French if you don't speak French and adhere to the principles of the Republic."*

In 2011 and 2012, many prefectures used their discretion to restrict naturalisation on orders from the previous Interior Minister through internal emails and unsigned letters. During those years, naturalisations dropped by 45% across all French departments. Over 50% of applications were either rejected or delayed. The combined drop in naturalisations and rise in negative decisions was unprecedented. According to the 2012 Mennucci parliamentary report,<sup>LIV</sup> this dramatic change cannot be explained by the new 2011 legal requirements, since they only entered into force in 2012. The new Socialist Interior minister is trying to reopen access to naturalisation through his own guidelines, published on 16 October 2012. Despite these good intentions, the de-concentration process means that local prefectures can still use their discretion as they see fit to block or delay immigrants' access to French citizenship.

## 6. Conclusions

Becoming citizens changes not only how immigrants participate in society, but also how society sees them. Naturalized immigrants obtain access to equal protection, voting and political rights, and the full labor market. In Western European countries as in the United States, immigrants who have naturalized tend to be better off in life than immigrants who have not. The emerging evidence from both sides of the Atlantic usually finds them to be more often employed and participating in voting and other types of political activities, working in better jobs, living in better housing, and enjoying a better financial situation.<sup>LVI</sup> They are less likely to receive discrimination and more likely to report it.<sup>LVII</sup> This 'citizenship premium' cannot be explained away by the fact that more integrated immigrants are more likely to apply for naturalization. A few studies look deeper<sup>LVIII</sup> and still find a statistically significant 'citizenship premium,' even after controlling for the characteristics of a person's individual background, country of residence, and country of origin. For example, US citizenship boosts an immigrant

worker's wages by at least 5 percent.<sup>LIX</sup> The differences between naturalized and foreign citizens are not simply due to the differences in the population, but somehow to citizenship itself. The Organisation for Economic Cooperation and Development (OECD), an inter-governmental think-tank, used higher-quality longitudinal data from France, Germany, and the US and found that **naturalization itself improved new citizens' economic integration, controlling for all other factors:**

*"Naturalisation tends to improve labour market outcomes, in particular for the most disadvantaged immigrants, although the extent to which this is actually the case varies a lot across countries and migrant groups. One common observation is that generally the immigrants who tend to gain most from naturalisation in terms of better outcomes are also those most likely to naturalise."*

The OECD puts forward three hypotheses to explain these findings in France, Germany, and the US:

1. Employers may prefer nationals due to real/perceived legal barriers and administrative costs
2. Employers may prefer nationals because naturalisation is seen as a 'signal' of immigrants' willingness to settle and integrate.
3. During or after naturalisation, immigrants and their employers may invest more in immigrants' local human capital (especially language and training).

Naturalisation may open opportunities for immigrants, especially vulnerable groups, and change attitudes within the general public.

Restrictive laws do not seem to improve the integration process. The MIPEX measures the inclusiveness and restrictiveness of naturalization policies in terms of the eligibility provisions (e.g. residence period, birth-right citizenship), thresholds of legal requirements (e.g. language level, type of citizenship test), official costs, level of administrative discretion, and acceptance of dual nationality. Based on this measure, several studies confirm that restrictive laws tend to prolong the wait until naturalization, limit the share of naturalized immigrants,<sup>LX</sup> and depress the annual naturalization rate.<sup>LXI</sup> It would seem logical that naturalized citizens would be most integrated in countries with the most selective requirements. However, this is not the case. The countries with the most demanding requirements

for naturalization do not necessarily register larger 'citizenship premiums' on various indicators.

Instead, restrictive laws may actually undermine integration. Forthcoming research suggests that the acquisition of citizenship has a greater effect on male immigrants' employment rates in countries with a more inclusive policy, as measured by MIPEX (see Annex). The sooner immigrants acquire citizenship, the greater its impact on the employment rates of male immigrants, even for those coming from the developed world like the US, Canada, or Europe (see Annex). The fewer the obstacles to naturalization, the more quickly immigrants will naturalize and the more useful citizenship will be to get them on the right track in those first crucial years in the country. The greater the obstacles to naturalization, the less useful citizenship will eventually be for naturalizing immigrants who, generally speaking, will have already had their chance to 'make it' in the country decades earlier.

These findings on the effects of citizenship on men's employment rates are echoed by the results of the Immigrant Citizens Survey in 15 European cities. The survey asked people who acquired long-term residence or citizenship about their perceived effects of these statuses on their integration. The sooner that immigrants applied for long-term residence or citizenship, the more helpful they thought it was to find a job, improve their education, get more involved in their local community, and feel more settled in the country. After a long period, many thought that they did not help at all. This trend was especially clear in the descriptive results from the two French cities (see Annex). These trends generally appear for employment, education, social involvement, and sense of belonging for long-term residents in the cities in other major countries of immigration like Germany and Spain as well as on citizenship in Spain, Portugal, Belgium, and Hungary.<sup>6</sup>

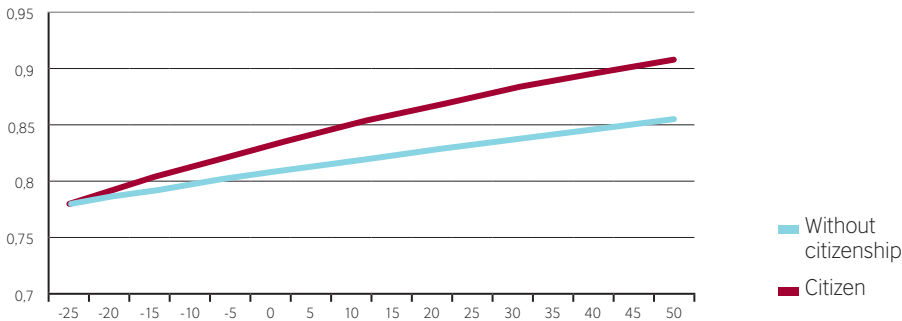
**Creating a long and winding road to long-term residence and citizenship may deprive a country of effective means to improve integration.** A clear pathway to citizenship might improve integration, especially for vulnerable groups such as legalized immigrants from developing countries. These benefits will also bring benefits for the entire country. In the

United States, the University of Southern California estimates that, if the 8.5 million lawful permanent residents currently eligible to naturalize did so, their earnings would rise over the next decade between \$21 and 45 billion, which would increase US GDP by between \$37 billion and \$52 billion.<sup>LXII</sup> Going further, the Center for American Progress estimates that a legalization program including the option of naturalization within five years would increase US GDP by \$1.1 trillion over the next ten years as well as an increase of \$144 billion in state and federal taxes, a cumulative increase of \$618 billion in the incomes of all Americans, and a 159,000 average annual increase in jobs. Based on its own findings, the OECD recommends that countries should facilitate the pathway to citizenship as part of their national integration strategies. As policymakers and the public debate immigration reform in France and the United States, they should be informed of the positive benefits of promoting the path to citizenship.

<sup>6</sup> Note that these findings are descriptive results of a small sample size (only 7,500 respondents total in 15 cities). However (Germany is excluded from analysis on citizenship due to differences in sampling).

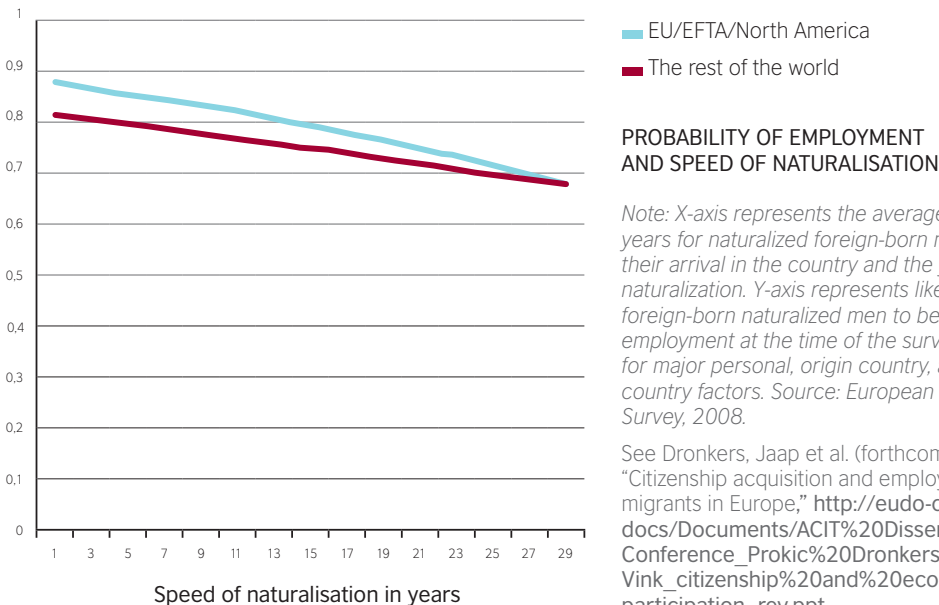
# ANNEX

## Relation between citizenship and employment is stronger for migrants in destination countries with less restrictions to citizenship (MIPEX)



Note: X-axis represents a country's score on the Migrant Integration Policy Index (MIPEX) with zero representing the mean score of the European countries examined. Y-axis represents likelihood for foreign-born men to be in paid employment at the time of survey, controlling for major personal, origin country, and residence country factors. Source: European Labour Force Survey, 2008.

## Positive relation between citizenship and employment is stronger for migrants who have acquired destination citizenship faster



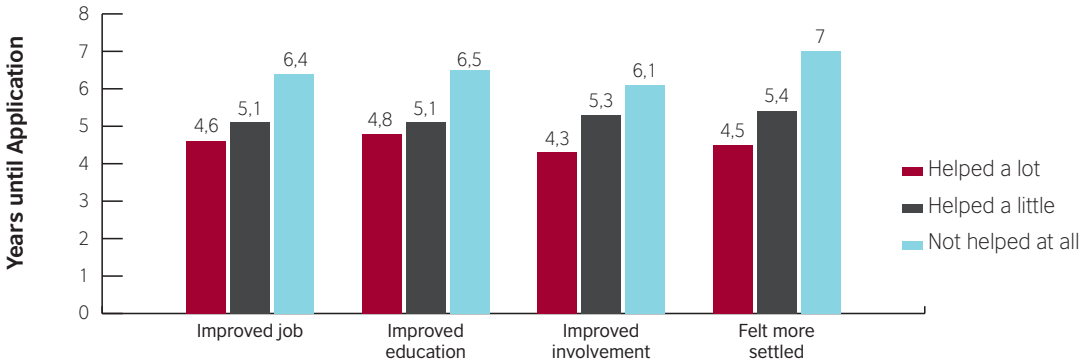
### PROBABILITY OF EMPLOYMENT AND SPEED OF NATURALISATION

Note: X-axis represents the average number of years for naturalized foreign-born men between their arrival in the country and the year of their naturalization. Y-axis represents likelihood for foreign-born naturalized men to be in paid employment at the time of the survey, controlling for major personal, origin country, and residence country factors. Source: European Labour Force Survey, 2008.

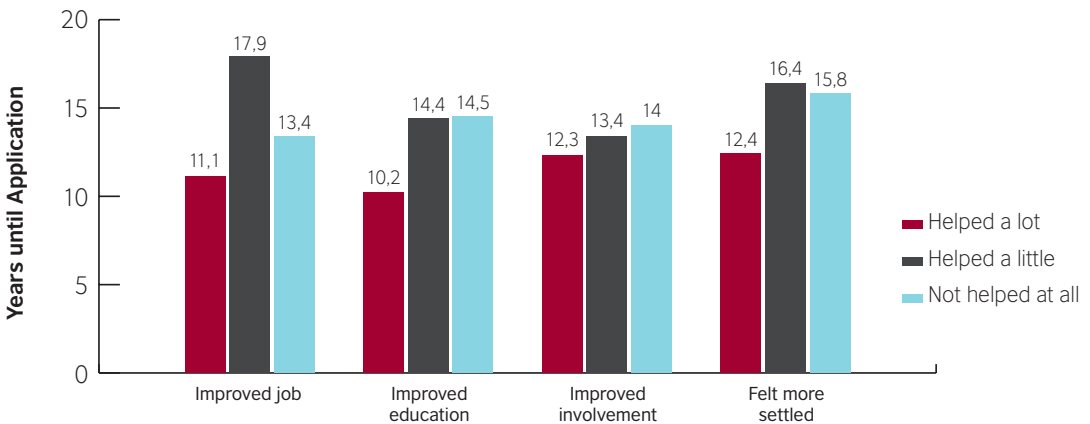
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### Perceived benefits of long-term residence by time to application - Immigrant Citizens 2011



### Perceived benefits of French citizenship by time to application - Immigrant Citizens Survey 2011



Note: X-axis presents the four types of questions asked to surveyed immigrants who acquired long-term residence or citizenship in the country: "To what extent do you think that becoming a [XXX] helped you personally to...Get a job or improve your job/business? Get more education or training? Get involved in your local community (e.g. school, associations, political activities)? Feel settled in [country]? Respondents had three answer options: helped a lot, helped a little, not helped at all. Y-axis represents the average number of years until application for those who answered each of those three answer options. 'Years until application' is measured as the number of years between the year of arrival in the country and the year of application for the status (either for long-term residence or citizenship). Source: Immigrant Citizens Survey, 2011.

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<sup>xlv</sup> Partnership for a New American Economy (2011), "The New American Fortune 500", [www.renewoureconomy.org/sites/all/themes/prnae/img/new-american-fortune-500-june-2011.pdf](http://www.renewoureconomy.org/sites/all/themes/prnae/img/new-american-fortune-500-june-2011.pdf)

<sup>xlvi</sup> Cimade, (2008), *Devant la loi: Enquête sur les conditions d'accueil des étrangers dans les préfectures, l'information du public et l'instruction des dossiers, Rapport d'observation*. See also Spire, Alex (2008), *Accueillir ou reconduire. Enquête sur les guichets de l'immigration, Raisons d'agir*, 2008.

<sup>xlvii</sup> OECD (2012)

<sup>xlviii</sup> Gonzalez-Barrera, Ana et al. (2013) "The path not taken: Two-thirds of legal Mexican immigrants are not US citizens," Pew Hispanic Center, [www.pewhispanic.org/2013/02/04/two-thirds-of-legal-mexican-immigrants-are-not-us-citizens/](http://www.pewhispanic.org/2013/02/04/two-thirds-of-legal-mexican-immigrants-are-not-us-citizens/)

<sup>xlix</sup> For more, see Van Hook, J., Brown, S. and Bean, F. (2007) "For Love or Money?: Welfare Reform and Immigrant Naturalization." In: *Social Forces*, 8(2): pp. 643-666. And Balistreri, K. and Van Hook, J. (2004) "The More Things Change the More They Stay the Same: Mexican Naturalization Before and After Welfare Reform." In: *International Migration Review* 38(1): pp. 113-130.

<sup>l</sup> Lee, James (2012), *U.S. Naturalizations: 2011*, Department of Homeland Security, Washington.

<sup>li</sup> Ibid.

<sup>lii</sup> For more on the impact of the naturalization fee on naturalization rates, see Pastor, Manuel et al. (2013), "Nurturing Naturalization: Could lowering the fee help?" Center for the study of immigrant integration and the National partnership for new Americans, [www.partnershipfornewamericans.org/storage/Nurturing\\_Naturalization-2013.pdf](http://www.partnershipfornewamericans.org/storage/Nurturing_Naturalization-2013.pdf)

<sup>liii</sup> See <http://eudo-citizenship.eu/indicators/citacqindicators>

<sup>liiv</sup> See <http://eudo-citizenship.eu/indicators/citimpindicators>

<sup>liv</sup> Mennucci, Patrick (2012), "Rapport sur l'immigration, l'intégration et l'accès à la nationalité française," Assemblée nationale, Paris, France. <http://www.assemblee-nationale.fr/14/budget/plf2013/a0258-tlv.asp>.

<sup>lv</sup> See <http://eudo-citizenship.eu/indicators/integration-indicators>. For more information, see Migration Policy Group (2012) "EWSI Special Feature: Access to nationality for third-country nationals," European Website on Integration, [www.migpolgroup.com/public/docs/EWSI\\_SF-2012%2003\\_Access-to-nationality\\_FIN.pdf](http://www.migpolgroup.com/public/docs/EWSI_SF-2012%2003_Access-to-nationality_FIN.pdf). See also OECD (2011) 'A passport for the better integration of immigrants' and Citizenship Integration Indicators at <http://eudo-citizenship.eu/indicators>.

<sup>lvii</sup> EU Fundamental Rights Agency (2008), *European Union Minorities and Discrimination Survey: Main Results*, Vienna, Austria. [http://fra.europa.eu/sites/default/files/fra\\_uploads/664-eumidis\\_mainreport\\_conference-edition\\_en\\_.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/664-eumidis_mainreport_conference-edition_en_.pdf).

<sup>lviii</sup> See Dronkers, Jaap et al. (forthcoming) "Citizenship acquisition and employment of male migrants in Europe," and Prokic-Breuer, Tijana et al. (forthcoming) "Socialization, Naturalization, and Immigrant Political Participation in Europe: Testing Transferability Theory," [www.fdcw.unimaas.nl/staff/files/users/215/Prokic.%20Vink.%20Hutcheson.%20Jeffers\\_naturalization%20and%20political%20participation.pdf](http://www.fdcw.unimaas.nl/staff/files/users/215/Prokic.%20Vink.%20Hutcheson.%20Jeffers_naturalization%20and%20political%20participation.pdf)

<sup>lix</sup> Sumption, Madeleine and Flamm, Sarah, (2012), "The Economic Value of Citizenship for immigrants in the United States," Migration Policy Institute, Washington, Dc, <http://www.migrationpolicy.org/pubs/citizenship-premium.pdf>

<sup>lx</sup> On speed to naturalization and share of naturalized immigrants, see Vink, Maarten et al. (forthcoming).

<sup>lxi</sup> Sartori, Fabio (2011)

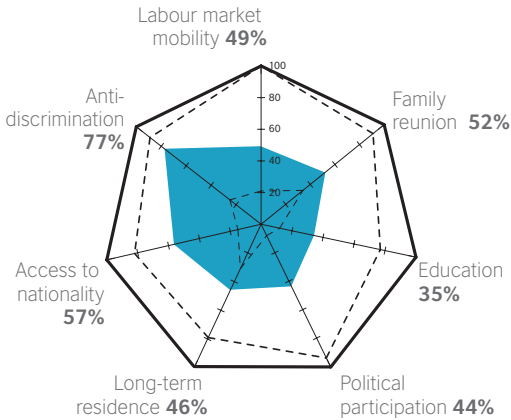
<sup>lxii</sup> Pastor, Manuel and Scoggins, Justin (2012), "Citizen Gain: The Economic Benefits of Naturalization for Immigrants and the Economy," Center for the Study of Immigrant Integration, [http://csii.usc.edu/documents/citizen\\_gain\\_web.pdf](http://csii.usc.edu/documents/citizen_gain_web.pdf)

# FRANCE

WWW.MIPEX.EU/FRANCE

## SCORE OVERVIEW

— 100% on MIPEX scale    ■ France    - - Best practice in 31 countries    - - Worst practice in 31 countries



## OVERVIEW

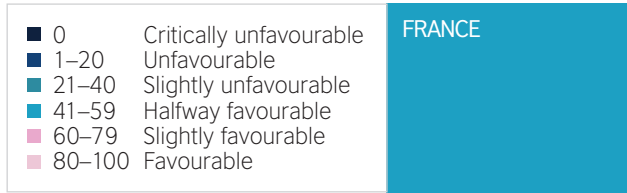
From 2008 to 2011, France granted fewer permits for seasonal and less skilled work as well as for family reunion, particularly with non-EU citizens. Immigration for highly-skilled workers and students slightly increased.

The period since MIPEX III covers the last years of the previous government under Nicolas Sarkozy and the first months of the government under François Hollande. The previous government further restricted access to nationality under the so-called Loi Besson/Guéant (2011-334), the last of the five immigration reforms in nine years. Since 2012, the new government abolished a few of the most egregious restrictions, improved the weak targeted education measures for newcomer pupils, and promised to undertake key reforms in the future.

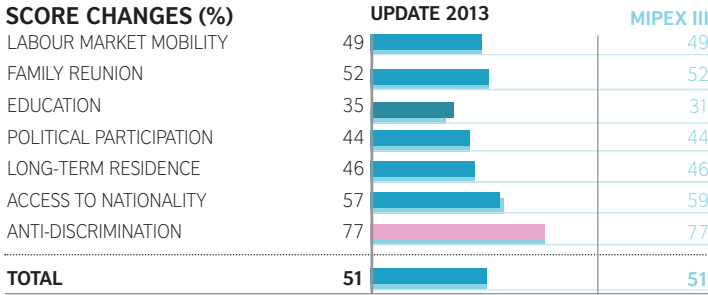
But so far, little has improved overall in France's integration policy. Scoring halfway on MIPEX, newcomers still encounter the least favourable and most contradictory integration policies of all major countries of immigration. More measures focus on unemployed migrants, while keeping millions of jobs closed. Obstacles are removed for work but remain for families, unlike in countries attracting labour migration like AU & CA. Foreigners are still waiting for a secure legal status and the right to vote at local level. To become citizens, they face some of the most demanding and discretionary requirements in Europe.

## INTEGRATION POLICY TIMELINE





**SCORE CHANGES (%)**



1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15: Eurostat  
3: OECD SOPEMI 2012

**KEY FINDINGS**

- Few countries follow France in imposing job, language and integration requirements for family reunion
- Targeted labour market measures still overlook major problems of legal access to jobs
- 2011 Besson/Guéant Law: minor changes on family reunion and access to nationality
- Naturalisation policy shares basics with other countries of immigration, but excessive discretion
- Targeted education measures for migrant children still weak, despite new circulars
- Most countries that facilitate naturalisation grant local voting rights for foreigners – not yet France
- France still leads on anti-discrimination, if equality body has not been undermined

**International migration statistics**

Net migration (2011) <sup>1</sup>	+53,775
TCN immigration (2011) <sup>2</sup>	89,989
Largest third countries of origin (2010) <sup>3</sup>	Algeria, Morocco, Tunisia
TCN population (2012) <sup>4</sup>	2,505,162
TCN as part of population (2012) <sup>5</sup>	3.83%
Foreign born as part of population (2012) <sup>6</sup>	11.26%
Permits delivered for family (2011) <sup>7</sup>	79,850
Permits delivered for work (2011) <sup>8</sup>	18,325
Permits delivered for study (2011) <sup>9</sup>	64,794
Permits delivered for humanitarian reasons (2011) <sup>10</sup>	11,058
TCN employment rate (2010, change since 2009) <sup>11</sup>	48% / 0%
Total employment rate (2009, change since 2006) <sup>12</sup>	69% / -1.0%
TCN unemployment rate (2010, change since 2009) <sup>13</sup>	23% / -1.0%
Total unemployment rate (2010, change since 2009) <sup>14</sup>	9% / 0%
Nationality acquisitions (2011, change since 2008) <sup>15</sup>	114,584 / -22,868

**0 June 2011**  
Family reunion  
Law 2011-672 defines  
grey marriages

**0 December 2011**  
Political participation  
Senate endorses  
local voting rights for  
non-EU citizens

**0 31 May 2012**  
Labour market  
mobility  
Access to labour  
market reopened for  
international students

**0 October 2012**  
Access to nationality  
Circular abolishes new  
test on French history,  
culture and society

**Education**  
Circulars 2012-141,  
142, 143 improve weak  
targeted education  
measures  
**+4 October 2012**



# FRANCE

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## Debate on highly-skilled immigration

Since MIPEX III, highly-educated newcomers have been the focus of debates on immigrants' access to the labour market. Under new legislation, highly-skilled workers should experience easier conditions to obtain temporary permits for scientific reasons and an easier one-stop-shop procedure. Yet following the success of the far-right party in March 2011 regional elections, the previous government set the target to decrease legal immigration. Graduating international students had much more difficulty to remain in

France as workers under the 'Guéant' circular of May 2011, which the new government abolished exactly one year later.



## LABOUR MARKET MOBILITY

UPDATE %

ACCESS	20
ACCESS TO GENERAL SUPPORT	50
TARGETED SUPPORT	63
WORKERS' RIGHTS	63
<b>LABOUR MARKET MOBILITY</b>	<b>49</b>

(SAME AS MIPEX III)

More so than most European countries, France is missing out on migrants' full economic potential and risking long-term exclusion. The previous government focused on targeted measures (e.g. 'Assessment of Professional Skills,' which is more than what most European countries do (see also DK, DE, NL, SE). However, the law still limits foreigners' opportunities to enter a career that matches their skills. French eligibility provisions are the second least favourable of all countries, after CY and SK and score 40 points below the EU average in the previous MIPEX edition. The majority of European countries give most non-EU residents full access to the private sector and self-employment as well as conditional access to the public sector. In France, immigrants without French citizenship or degrees are denied legal access to more jobs than in all MIPEX countries. Past estimates of around seven million excluded jobs (or 30% of all jobs in France) include public sector jobs (e.g. permanent civil servants), 50 professions in the private sector and from starting a business in many regulated professions. Moreover, the recognition of foreign qualifications may be long, costly and even impossible in some sectors (instead, see countries like CA and PT). France is also the only MIPEX country to deny full trade union rights to non-EU citizens. In 2004, they lost the right to be elected to 'Prud'homme' Councils and Chambers of Commerce and Professions.

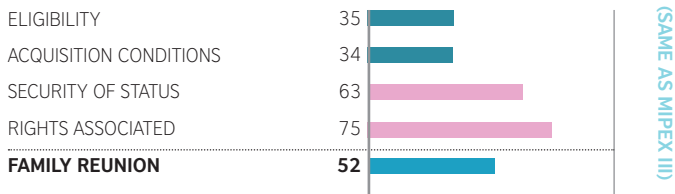
Restrictive requirements limit labour market access and family reunion

**FRANCE**  
see ES, SE, AU, and CA

**First white marriages, now grey marriages...**

Previous laws defined a so-called 'white marriage' as a non-EU citizen marrying a French citizen or resident only with the intention of obtaining residence. The difference in a 'grey marriage' is that the non-EU citizen hides this intention from the spouse. For this, the 2011 law introduces punishments of five-year imprisonment and a 15000 euro fine. These types of marriages were already against the law and only a marginal phenomenon (0,45% of mixed marriages in 2004 were annulled due to fraud). The 2011 law does facilitate two aspects of family reunion. Non-EU victims of domestic abuse should have a clearer path to a 'private life and family' permit. Highly-skilled 'EU Blue Card' workers should benefit from easier conditions for family reunion.

**FAMILY REUNION**



As their starting point for integration, non-EU families have worse opportunities to live together in France than they do in most European countries, Australia, Canada, and the United States. Overall, French law keeps families separated with some of the most restrictive eligibility provisions and the second most restrictive conditions. This only compares to AT, DK, CH, where policies are highly politicised and regularly changed. The 2007 Hortefeux Law added and restricted the conditions: employment (required in only five other MIPEX countries), integration (six), and pre-departure measures (four). The 2011 immigration law could do little more than add new punishments for marriages of convenience and 'grey marriages' (see box). In recent years, non-EU citizens have also had to pay more for their residence permits' issuance (now 241 euros) or renewal (from 58 to 241 euros).

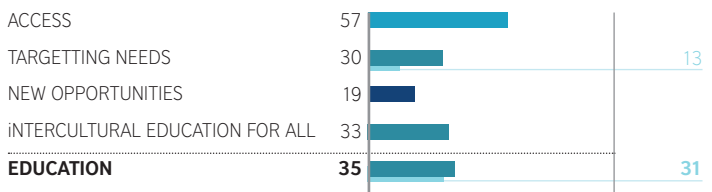
**New but weak targeted measures**

Newcomer students can be greatly helped by the CASNAVs (see also LU), France's little-known but well-trained institutions that assess and inform new pupils and assist schools. Circulars 2012-141, 142, and 143 reinforce their role and the requirements for schools. Every pupil now clearly has the right to individualised needs-based support until they obtain academic fluency in French. A national evaluation tool will also help monitor these pupils' progress. However, schools still have wide discretion about the quality of their language courses for newcomers (CLINs). Moreover, this additional support often ends when the pupil enters the mainstream classroom.

Most other established countries of immigration require the use of specially-trained teachers, learning standards, and ongoing support. Instead, see DE, NL, PT, SE and US.



**EDUCATION**



Immigrant pupils still receive some of the weakest targeted education support in France compared to most established immigration countries. All pupils, whatever their legal status, have an equal right to an education and to whatever general support exists for disadvantaged students (e.g. ZEPs). Since MIPEX III, three new government circulars have slightly improved France's comparatively few and weak targeted support measures (see box). Besides this, understanding diversity is not yet part of the curriculum, which largely dropped intercultural education in the 1980s (unlike 28 countries). Some bilateral agreements still support immigrant languages (LCOs). In other school systems, mainstreaming (e.g. AU, BE, CA, PT, SE) helps classroom teachers target specific needs while teaching all pupils to live and learn together in a diverse society.

# FRANCE

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## Voting rights for immigrants, but when?

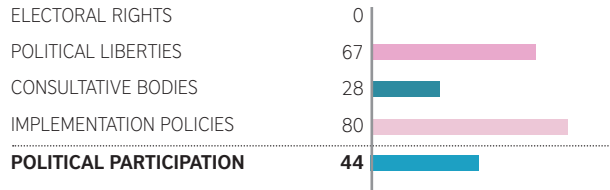
Passive local voting rights for non-EU citizens with five years residence would enfranchise approximately 1.8 million voters. On the right, Nicolas Sarkozy endorsed it as a 'factor of integration' in 2005, dropped it while President in 2008, and vehemently attacked it as a 'communitarian risk' during the 2012 elections.

Current president François Hollande promised local voting rights before the 2014 local elections. However,

he may not have the three-fifths of the Parliament or the majority of referendum voters needed for a constitutional amendment.



## POLITICAL PARTICIPATION



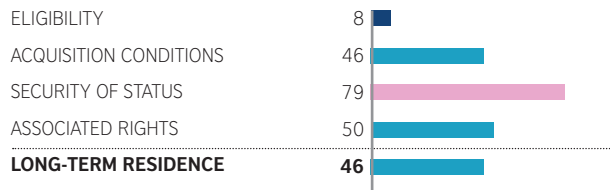
(SAME AS MIPEX III)

Established European countries of immigration like France that facilitate access to nationality also tend to open political opportunities for foreigners. Local voting rights (as in 20 MIPEX countries) remain an unfulfilled promise for the past thirty years (see box). Still, non-EU nationals can join political parties, as in 21 others. The organisations they form receive some support for civic participation. Some professions in the media remain closed to non-EU-trained foreigners (see labour market mobility). The consultative councils of foreign residents in major French cities (e.g. Paris, Grenoble, Nantes, Strasbourg, Toulouse) are slightly favourable, but could also be immigrant-elected and led (e.g. FI, DE, NO). Only in FR, GR, and IE have local but no national consultative council, although local councils have federated together (CofraCiR) to call for local voting rights.

## Facilitate path to long-term residence: a multiannual permit proposed

Before many non-EU immigrants can secure permanent residence after three or five years, they must go through the delays, insecurity, and bureaucracy of renewing their residence permit every year. The new government plans to create an intermediate multiannual permit, with the aim to stabilise the lives of those who legally live and work on the national territory.

## LONG-TERM RESIDENCE



(SAME AS MIPEX III)

Fewer categories of immigrants can access long-term residence, which lags behind most European countries, where this is usually a strength for integration. Twenty years ago, long-term residence was the rule rather than the exception. These residents enjoy a generally equal and secure 10-year-status, notwithstanding the persistent nationality restrictions on jobs and qualifications. In expulsion cases, judges consider their personal circumstances, like age and residence duration. In 2003, then interior minister Sarkozy also reformed (but did not completely remove) double punishment. However, the list of who can apply shrunk with 2003 and 2006 reforms. Eligibility, at 8 points, is well below the European average (43). The 2011 law further tightened the integration requirement by widening the conditions and sanctions for the integration contract and courses.

Discretion undermines access to French citizenship	<b>FRANCE</b>
	see instead DE, NL, Nordics

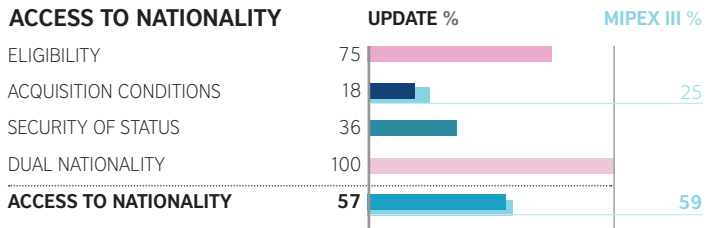
**Deconcentration of naturalisation**

Local prefects can now reject an applicant, without needing the approval of the Interior Ministry as they did before. Building on a 2009 pilot, the previous government wanted to improve services and shorten waiting times for decisions. However, the reform may lead to more unequal treatment, as suggested by the 16 October 2012 Lipietz report. First generation immigrants with the same background may be accepted in one prefecture but rejected in another, depending on the way conditions are interpreted. The IGA is preparing an official evaluation.



**New language and citizenship tests**

Applicants must prove B1-level knowledge of French, either through a professional test or course (Français langue d'intégration, see decree 2011-1265). There are now clear exemptions for the elderly over 65 and people with French degrees. But the test and courses come at higher costs, since the CAI only guarantees free courses for newcomers who do not speak French at an A1-level. The second test (abolished in October 2012) involved written multiple-choice questions on French history, culture and society, based on the level expected in French primary schools (decree 2012-126).



The basic path to French citizenship aspires to treat all citizens equally: dual nationality for all (as in 18 other MIPEX countries), *jus soli* (15) and naturalisation after five years (8). However, France has lowered its score and ranking on access to nationality, falling to 14th, because of its discretionary procedure and demanding requirements.

While applicants benefit from judicial oversight and protection against statelessness, French prefects enjoy significant discretion in naturalisation (see box). First generation immigrants are likely to experience more discretionary procedures in France than in the other established countries of immigration in Northwest Europe (see BE, DE, NL, and Nordics). Other countries entitle applicants to citizenship if meeting the legal conditions (10). Since 1 July 2010, prefects have even greater discretion under the newly decentralised procedure (see box). The previous government instructed them through emails and unsigned letters to restrict their interpretation of France's already restrictive and discretionary requirements. Between 2010 and 2012, this discretion hit many applicants hard, as the number of successful naturalisations suddenly dropped by 45%.

Immigrants to France face the most demanding and discretionary naturalisation conditions in Europe, after only Switzerland. Becoming a citizen is conditional upon a person's employment situation (as in only 12 other MIPEX countries). Because of a 55-euro stamp duty, the procedure is also no longer free (see only EE, HU, PL, ES). Before 2011, applicants had to pass vague and highly discretionary language and citizenship interviews. This was replaced in the 2011 law by a language test, a citizenship test, and a Charter of rights and duties of French citizen (see box). The new government promptly abolished this test and returned to the earlier 'assimilation' requirement, but still without clear exemptions or the free support to pass. Most other countries do not require such a high level of language fluency (only 7 countries). Several others offer free language and citizenship assessments (e.g. CA, NO, US), based on freely available courses and lists of questions (8 countries).

# FRANCE

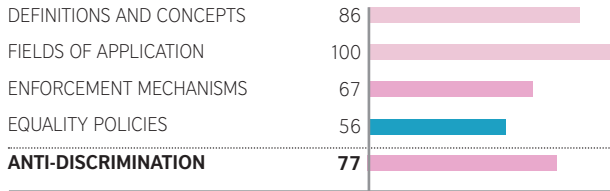
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**Recent changes: strengths or weaknesses?**

In 2011, la HALDE and three other institutions were absorbed into the new Defender of Human Rights, which nevertheless retains its powers as an independent and strong equality body. 2011 also saw an inter-ministerial delegate replace the former committee on fighting racism and anti-Semitism. Earlier in 2010, intense debate about the burka surrounded the law 2010-1192, which allows the police to fine people who conceal their face in public spaces.

**ANTI-DISCRIMINATION**

**UPDATE %**



(SAME AS MIPEX III)

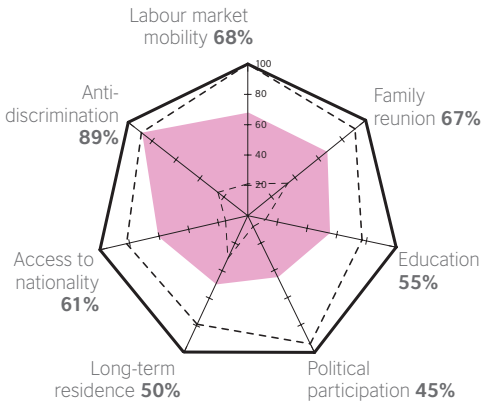
France’s anti-discrimination law remains the country’s greatest strength for promoting integration and leads among countries of immigration (with CA, US, UK, BE, SE). Discrimination is well defined and prohibited in all major areas of life on the grounds of race, ethnicity, religion, and nationality. The previous government may have undermined these laws, for example by abolishing the highly effective equality body, la HALDE (see box). In addition, MIPEX finds the general enforcement mechanisms to be only slightly favourable for fighting discrimination, while the equality policies only go halfway. The weaknesses are the absence of class actions and actio popularis, lengthy procedures in court, limited alternatives for resolving disputes, and the absence of non-discrimination clauses in public functions and contracts.

# UNITED STATES OF AMERICA

WWW.MIPEX.EU/USA

## SCORE OVERVIEW

— 100% on MIPEX scale    ■ US    - - Best practice in 31 countries    - - Worst practice in 31 countries



## OVERVIEW

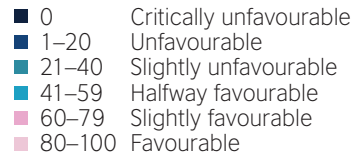
Most Americans are but a few generations from the immigrant experience. Since early 20th century ‘Americanization’ movements, voluntary and community organizations largely drive integration work, with government focusing on family reunion and naturalization. With more US residents born abroad since 1990, they numbered about 40 million in 2010: 37% naturalised citizens, 31% legal permanent residents, 4% legal temporary workers, and 28% undocumented (about 11 million, 1 million fewer since 2007). Approximately 1 million children are undocumented, while 4.5 million American citizens live in ‘mixed-status families’ with one or two undocumented parents. The mostly work- and family-based immigration is tied to ‘ceilings,’ unchanged since 1990.

In the absence of federal immigration reform, the federal government has focused on border security and enforcement, with record numbers of deportations. The undocumented have been targeted by restrictive laws in states like Alabama, Arizona, Georgia, Indiana, South Carolina, and Utah. A few other states have extended greater rights to the undocumented and greater integration and naturalization support to legal residents.

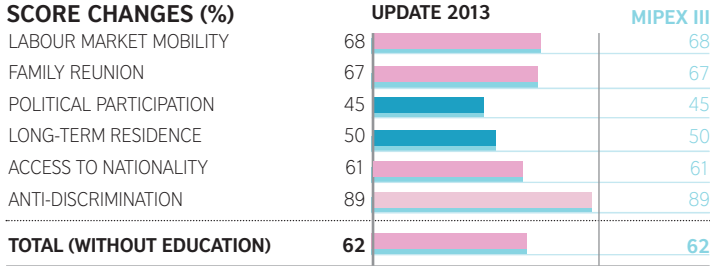
Since 2010, MIPEX finds no major changes in America’s national integration policies, which remain slightly favorable for immigrants with a legal status to participate in society and become full citizens. First and foremost, strong anti-discrimination laws protect all residents. Immigrants who obtain a legal status have good opportunities to live with their family and find a job, but not as good as those Americans enjoy. Still, the path to citizenship, even for legal immigrants, is not as easy as many think. Disproportionate fees,

## INTEGRATION POLICY TIMELINE





**SCORE CHANGES (%)**



16: OECD SOPEMI 2012  
 17, 18, 19, 20, 21, 22, 23, 24 : ibid  
 25: Department of Homeland Security, Office of Immigration Statistics, Yearbook of Immigration Statistics 2011

limited family visas, long backlogs, and insecure rights defer many from the American dream of citizenship, a secure family, and a good job. These symptoms of the so-called 'broken' immigration system may be eroding the United States' traditional gift for integration. Averaged together, these obstacles put the US at just 10th, compared to 30 European countries, Australia, Canada, and Japan. Clinching 3rd place and 5th place, Canada and Australia outperform the US on reuniting families, encouraging workers and students to settle, facilitating the requirements for naturalisation, promoting diversity in schools, and working to recognize immigrants' qualifications.

**INTERNATIONAL HARMONISED MIGRATION STATISTICS**

Net migration (2010) <sup>16</sup>	719,000
Immigration flow (2010) <sup>17</sup>	1,042,600
Largest countries of origin (2010) <sup>18</sup>	Mexico, China, India
Foreign-born population (2010) <sup>19</sup>	39,917,000
Foreign-born as part of population (2010) <sup>20</sup>	12.9%
Permits delivered for family (2010) <sup>21</sup>	772,400
Permits delivered for work, permanent (2010) <sup>22</sup>	67,000
Permits delivered for study (2010) <sup>23</sup>	385,200
Permits delivered for humanitarian reasons (2010) <sup>24</sup>	136,300
Nationality acquisitions (2010, change since 2008) <sup>25</sup>	619,913 / -426,626

**KEY FINDINGS**

- Strongest anti-discrimination laws, tied with CA, benefit all, including newcomers
- Dual nationality and some form of birthright citizenship: US, AU, and CA as model for most established and reforming immigration countries
- Immigrants to the US pay some of the world's most expensive fees for family reunion, green cards, and naturalisation
- Green Card more fragile status than in most countries: limited public benefits and few protections against deportation
- Policies do not reflect many ways Americans and immigrants live together as families
- Some of the longest waits to reunite with their families, counted not in years, but decades
- Schools target problems of some migrant children, but rarely see the new opportunities they bring

0 June 2012  
**Family reunion**  
 Provisional unlawful presence waivers of inadmissibility for certain immediate relatives

0 June 2012  
**Education**  
 President Obama issues Deferred Action for Childhood Arrivals (DACA)

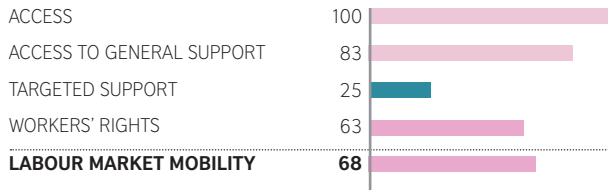
0 January 2013  
**Reform**  
 President Obama and Senate leaders propose plans for immigration reform

# UNITED STATES OF AMERICA

WWW.MIPEX.EU/USA

## LABOUR MARKET MOBILITY

UPDATE %



(SAME AS MIPEX III)

A legal status in the US gives most migrant workers and their families some of the same chances in the labour market as native-born Americans. Both can look for employment, start a business, get help from the government in their job hunt, expect the same working conditions, and pay the same levels of tax and social security. Still, the job they find may be far below the skills they have, because some states and professional organizations are not working together to recognize their foreign diplomas. Countries with comprehensive integration strategies better target this and other specific needs of workers born and trained abroad (e.g. AU, CA, the Nordics and Northwest Europe).

### Provisional unlawful presence waivers of inadmissibility for certain immediate relatives

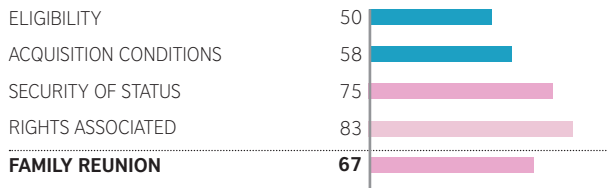
Certain American citizens will not have to be separated for so long from their undocumented spouse, children, or parents through this new waiver process, in force as of 4 March 2013. These immediate family members can receive a provisional unlawful presence waiver while still in the United States. After departing abroad for their immigrant visa interview, the visa can be issued



without delay if they are eligible for a family-based visa and not inadmissible on other grounds.

## FAMILY REUNION

UPDATE %



(SAME AS MIPEX III)

Immigrants with legal status have a slightly favorable chance of living together with their family members. But before families can reunite, they must overcome numerous institutional barriers including limited visa availability, high fees, and backlogs. Beyond the immediate relatives of legal permanent residents, the wait to reunite can be 20 years because demand for visas far outweighs availability. In addition, the US defines family relationships narrowly. US immigration law often fails to reflect the many ways that Americans and immigrants live together in families. Unlike legal permanent residents, many temporary residents cannot petition for their families while in the US, even if they have the resources to support them (instead, see 18 MIPEX countries). US legal permanent residents can only sponsor their parents or adult children after they naturalise. No one in the US has the right to apply for a visa to sponsor their foreign homosexual partner, unlike in over half the MIPEX countries. Once families arrive, they have a generally secure future in the country and the same rights as their sponsor, as in most MIPEX countries. Some family members can also apply for autonomous residence permits, especially in cases of divorce or death, which is an area of weakness for most countries (see also leading AU, CA, and Nordics).



Path to US citizenship is not paved with gold: limited access, high fees, long waits, insecure Green Cards.

UNITED STATES OF AMERICA

See AU, CA or, in Europe, ES, PT, SE

**Alabama law undermines rights of undocumented schoolchildren**

Aiming to make Alabama a hostile place for undocumented immigrants, Law HB 56 of 9 June 2011 requires, among many other provisions, for public schools to determine the immigration status of all newly enrolled students. Courts temporarily blocked parts of the law, but not before many families fled the state out of fear and 13 percent of Latino students dropped out by February 2012. Although the 2012 legislature and governor planned to remedy this and other glaring issues, the new HB 658 law signed on 18 May 2012 was even more restrictive.

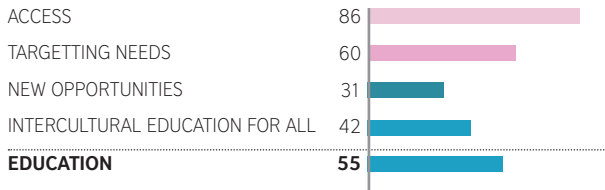


**First step for the 'DREAMers': Deferred Action for Childhood Arrivals**

A year-and-a-half after the failure of the DREAM Act in the US Senate, President Obama issued a directive that the government should use its prosecutorial discretion towards some of the undocumented who were brought to the US as children under the age of 16. Young people who are studying, graduated from high school, or served in the military can be granted deferred action for a period of two years, subject to renewal, and may be eligible for employment authorization.

**EDUCATION**

**UPDATE %**



(SAME AS MIPEX III)

All students, regardless of status, attend free public education from kindergarten through high school. Until recently (see box), undocumented students did not have the same right to attend college. They can receive neither federal financial aid, nor in-state tuition in 37 states (unlike around half the MIPEX countries). Since the last MIPEX in 2010, access to in-state tuition has been extended in Connecticut, Maryland, and Rhode Island, but barred in Alabama (see box) and Indiana.

Targeted programmes slightly help minority students and limited English speakers complete school, from pre-school to college. Targeted programmes are provided by Head Start, the College Assistance Migrant Program and affirmative action. The 2001 No Child Left Behind Act (NCLB) set new goals for states to improve the attainment of all students, including certain immigrant groups such as limited English proficient (LEP) or Hispanic students. LEP students benefit from more targeted funding, support, monitoring, parental outreach and overall school accountability. Although they have rights to English support since 1974's Supreme Court decision *Lau v. Nichols*, NCLB improved the quality and range of these courses. It is not clear how immigrant and low-income pupils will be affected by the waivers from the NCLB monitoring and accountability requirements granted to 32 states and DC since 2012.

More generally, states rarely see the new opportunities that migrant children bring. Some guarantee that all students can learn immigrant languages as their foreign language (like most other MIPEX countries), with around half-a-dozen states supporting bilingual education. Now roughly half of the states require teachers to be trained for multicultural classrooms. States like Illinois and Texas try training and recruiting immigrant teachers. Only students in certain states learn about living together in diverse societies or see this in their textbooks (e.g. California, Florida, and Texas).

# UNITED STATES OF AMERICA

WWW.MIPEX.EU/USA

## Offices and Councils of New Americans

Illinois started the movement in 2005, followed by states such as Massachusetts, New Jersey, Maryland, Washington State, and, most recently, New York. Immigrants are also consulted in major cities like New York City, Chicago and San Francisco. Appointed faith and community leaders are consulted by governors or city officials from time-to-time, often to organise public hearings, report, and make recommendations. [gov/NewAmericans.htm](http://gov/NewAmericans.htm)

## Stricter voter ID laws

Newly naturalized citizens will face disproportionately greater obstacles to exercise their right to vote, as states pass stricter voter ID requirements. Since the last MIPEX in 2010, stricter photo-ID requirements have been passed in 14 states, with several of them pending judicial review.

## Green Cards: more fragile than in most countries

Legal permanent residence is more insecure in the US than in AU, CA, and 21 European countries. It is lost for several reasons, including relatively minor crimes, failure to file taxes, or travel abroad for more than six months. Decisions to deport legal permanent residents do not need to balance these reasons with their personal circumstances tying them to the US. Not even people living there for decades, since childhood, or with children are fully protected, because standards to cancel removal orders are very high.



## POLITICAL PARTICIPATION

	UPDATE %
ELECTORAL RIGHTS	17
POLITICAL LIBERTIES	100
CONSULTATIVE BODIES	15
IMPLEMENTATION POLICIES	50
<b>POLITICAL PARTICIPATION</b>	<b>45</b>

(SAME AS MIPEX III)

Before immigrants naturalise, they have few formal opportunities to be represented in American democratic life. All people in the US have basic political freedoms, as in most MIPEX countries. Most new communities need private funds to organise, especially at national level. They are not represented by federally-sponsored organizations or advisory bodies (unlike in 9 MIPEX countries e.g. ES, NL). Several cities and states have recently recognised the importance of integration and created Councils of New Americans, though with basic mandates (see box). Very few legal residents have local voting rights. More may get them, as towns and states debate the idea. These rights existed in 22 US states before the 1920s and exist today in 18 other MIPEX countries.

## LONG-TERM RESIDENCE

	UPDATE %
ELIGIBILITY	50
ACQUISITION CONDITIONS	50
SECURITY OF STATUS	36
ASSOCIATED RIGHTS	63
<b>LONG-TERM RESIDENCE</b>	<b>50</b>

(SAME AS MIPEX III)

Immigrants who can become legal permanent residents enjoy fewer guarantees in American life than they do in AU, CA, and most European countries. Many entering on temporary visas cannot settle as green-card holders, including immigrants the US tries to attract like international students and highly-skilled workers (instead, see AU, CA, DK, and SE). For those eligible, conditions in law are not unfavorable, but fees are among the highest in MIPEX countries and procedures the longest. Green-card holders are free to work and study. But since 1996, many cannot use federal benefits in their first five years in the country, unlike in all MIPEX countries, but AU and CY. Moreover, legal permanent residents have a relatively fragile status (see box).

Promoting naturalization and equal opportunities are central to integration strategies in the US, AU, and CA.

UNITED STATES OF AMERICA

In Europe, see BE, FR, PT, SE and UK.

**Integration through naturalization: New campaigns**

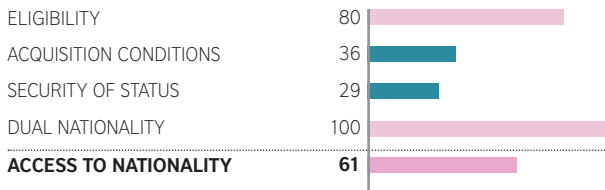
In 2011, the US Citizenship and Immigration Services (USCIS) launched its first nationwide naturalization campaign, including paid advertisements, new free print and web resources. The campaign targeted states with high immigrant populations and explained the naturalization procedure and benefits. Since 2009, USCIS has provided free naturalization resources, information sessions, and grants. Campaigns and initiatives have also been launched by the



US Conference of Mayors and by leading immigrant-support organizations (see National Partnership for New Americans, New Americans Campaign, 'Ya Es Hora', and CitizenshipWorks).

**ACCESS TO NATIONALITY**

UPDATE %



(SAME AS MIPEX III)

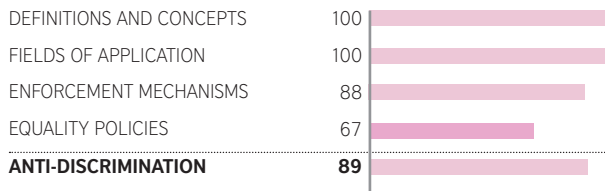
As a nation of immigrants, the US slightly encourages newcomers to become citizens in order to fully participate in American public life (see box). Its core principles on citizenship are shared with other established countries of immigration (AU, CA, FR, UK) and newer destinations that have been inspired to reform: around five-years' residence for newcomers (8 other MIPEX countries), some form of birth-right citizenship (15) and dual nationality (18). Still, fees and backlogs are keeping eligible immigrants from the dream of citizenship. Fees rose by 69 % in 2007. These are now higher than in 25 of the 32 other MIPEX countries. Half ask for just normal administrative fees similar to obtaining passports. The US naturalization procedure still contains backlogs without any legal time limits (unlike in 13 MIPEX countries).

**Favorable enforcement of anti-discrimination law**

Civil society organizations can support potential discrimination victims in their cases or file civil actions. If they do not speak English well, the law requires free interpreters in federal court and state courts that receive federal funds. Courts are used for these cases and regularly accept statistical evidence and situation testing to prove discrimination. Civil and criminal cases are well enforced, but still lengthy. If their case is against the government, the Equal Employment Opportunity Commission investigates the facts of their case, can instigate its own proceeding and enforces its findings.

**ANTI-DISCRIMINATION**

UPDATE %



(SAME AS MIPEX III)

People in the US (and CA) enjoy the strongest laws to protect them against discrimination. Equal opportunities legislation guarantees that no legal resident can be denied opportunities because of their race, ethnicity, religion, national origin or citizenship, as in half the MIPEX countries. The US also limits accent discrimination and language requirements. The mechanisms to enforce the law are the most favorable for potential victims of discrimination in the MIPEX countries (see box). The Department of Justice's Civil Rights Division takes the lead on promoting equal opportunities. Across government, disadvantaged groups can benefit from affirmative action as well as support for minority businesses, for instance through 'supplier diversity'. Their work would improve if potential victims could obtain information and advice from national or local agencies, as in 21 other MIPEX countries, including FR, NL, SE and UK.

# LIST OF INDICATORS

## 1. LABOUR MARKET MOBILITY

### 1.1 Access

1. Immediate access to employment; 2. Access to private sector; 3. Access to public sector; 4. Immediate access to self-employment; 5. Access to self-employment

### 1.2 Access to general support

6. Public employment services; 7. Education and vocational training; 8. Recognition of qualifications

### 1.3 Targeted support

9. State facilitates recognition of qualifications; 10. Measures for economic integration of third-country nationals; 11. Measures for economic integration of migrant youth and women; 12. Support to access public employment services

### 1.4 Workers' rights

13. Accessing trade unions; 14. Accessing social security; 15. Working conditions; 16. Information policy

## 2. FAMILY REUNION

### 2.1 Eligibility

17. Time and documents considered; 18. Partners and age limits; 19. Minor children; 20. Dependent relatives; 21. Dependent adult children

### 2.2 Conditions for acquisition of status

22. Pre-departure integration conditions; 23. Upon arrival integration conditions; 24. Accommodation; 25. Economic resources; 26. Maximum duration; 27. Costs

### 2.3 Security of status

28. Duration of validity; 29. Grounds for rejection, withdrawal, refusal; 30. Personal circumstances considered; 31. Legal protections

### 2.4 Rights associated with status

32. Autonomous permit for partners and children; 33. In case of widowhood, divorce, death, violence; 34. For other family members; 35. Access to education and training; 36. Employment and self-employment; 37. Social benefits

## 3. EDUCATION

### 3.1 Access

38. Accessing pre-primary education; 39. Compulsory education as a legal right; 40. Assessment of prior learning; 41. Support to access secondary education; 42. Accessing vocational training; 43. Accessing higher education; 44. Advice and guidance

### 3.2 Targeting needs

45. Induction programmes; 46. Support in language(s) of instruction; 47. Pupil monitoring; 48. Educational situation of migrant pupils; 49. Teacher training

### 3.3 New opportunities

50. Option to learn immigrant languages; 51. Immigrant cultures; 52. Promoting integration and monitoring segregation; 53. Measures to support parents and communities

### 3.4 Intercultural education for all

54. Inclusion in school curriculum; 55. State supports information initiatives; 56. Modifying curricula to reflect diversity; 57. Adapting daily life; 58. Bringing migrants into the staff; 59. Teacher training

## 4. POLITICAL PARTICIPATION

### 4.1 Electoral rights

60. Right to vote in national elections; 61. Regional elections; 62. Local elections; 63. Right to stand in local elections

### 4.2 Political liberties

64. Right to association; 65. Political parties; 66. Creating media

### 4.3 Consultative bodies

67. Consultation at national level; 68. Regional level; 69. Capital city level; 70. Local city level

### 4.4 Implementation policies

71. Information policy; 72. Public funding/support for national immigrant bodies; 73. For regional immigrant bodies; 74. At local level in capital city; 75. At local level in city

**5. LONG-TERM RESIDENCE****5.1 Eligibility**

76. Required time of residence and documents considered; 77. Counting time as pupil/student; 78. Periods of prior-absence allowed

**5.2 Conditions for acquisition of status**

79. Language and integration conditions; 80. Economic resources; 81. Duration of procedure; 82. Costs

**5.3 Security of status**

83. Duration of validity; 84. Renewable permit; 85. Periods of absence; 86. Grounds for rejection, withdrawal or refusal; 87. Personal circumstances considered before expulsion; 88. Expulsion precluded; 89. Legal protections

**5.4 Rights associated with status**

90. Residence after retirement; 91. Working and conditions; 92. Social benefits; 93. Recognition of qualifications

**6. ACCESS TO NATIONALITY****6.1. Eligibility**

94. Time of residence for first generation immigrants; 95. Periods of absence; 96. Partners/spouses of nationals; 97. Birthright citizenship for second generation; 98. For third generation

**6.2 Conditions for acquisition**

99. Language; 100. Citizenship/integration; 101. Economic resources; 102. Criminal record; 103. Good character; 104. Maximum duration of procedure; 105. Costs

**6.3 Security of status**

106. Additional grounds for refusal; 107. Discretionary powers in refusal; 108. Personal circumstances considered before refusal; 109. Legal protections; 110. Grounds for withdrawal; 111. Time limits for withdrawal; 112. Statelessness

**6.4 Dual nationality**

113. Dual nationality for first generation; 114. For second/third generations

**7. ANTI-DISCRIMINATION****7.1 Definitions and concepts**

115. Definition includes direct and indirect discrimination, harassment, instruction to discriminate 116. Discrimination by association and on basis of assumed characteristics; 117. Applies to natural and legal persons; 118. Applies to public sector; 119. Legal prohibitions; 120. Freedom of association restricted when impeding equality; 121. Multiple discrimination

**7.2 Fields of application**

122. Anti-discrimination law covers employment and vocational training on grounds of race and ethnicity, religion and belief, and nationality; 123. Education; 124. Social protection including social security; 125. Social advantages; 126. Access to and supply of public goods and services, including housing; 127. Including health

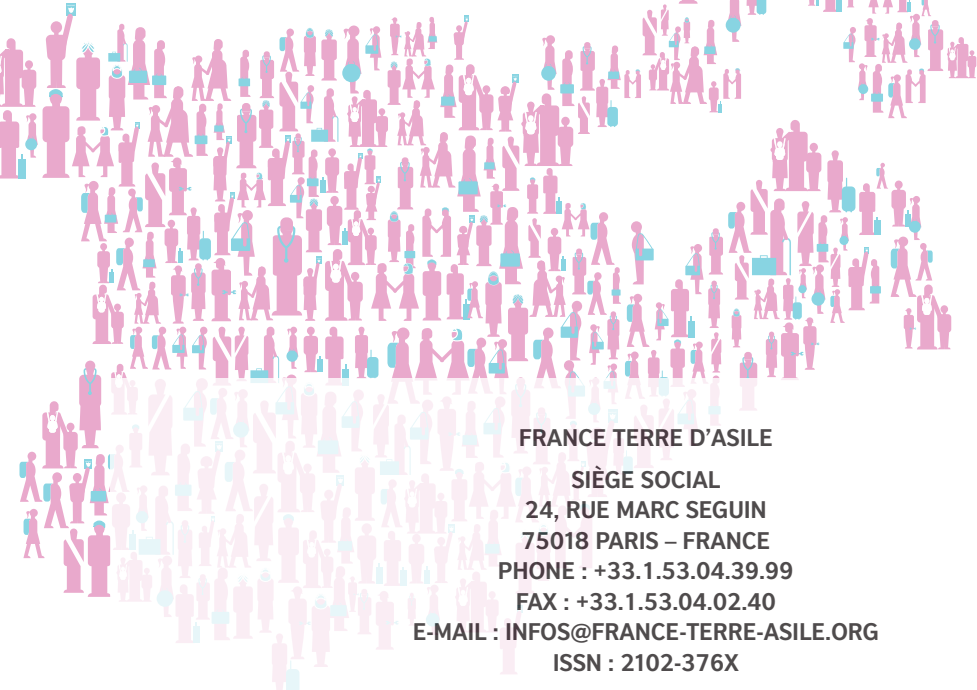
**7.3 Enforcement mechanisms**

128. Procedures available; 129. Alternative dispute resolution; 130. Grounds; 131. Duration; 132. Burden of proof; 133. Situation testing and statistical data; 134. Victimisation; 135. State assistance; 136. Role of legal entities; 137. Range of legal actions; 138. Sanctions; 139. Discriminatory motivation

**7.4. Equality policies**

140. Specialised equality agency established; 141. Assists victims; 142. Acts as a quasi-judicial body; 143. Has legal standing; 144. Can instigate proceedings, lead investigations, enforce findings; 145. State disseminates information and facilitates dialogue; 146. Mechanisms ensure compliance at national level with dedicated government units; 147. Public bodies promote equality in functions and contracts; 148. Positive action.

**Please note this is a condensed list. The full list of indicators is available at [www.mipex.eu](http://www.mipex.eu).**



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**OFFICE FOR  
COOPERATION  
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ORGANIZATIONS**

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