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## State of democracy in Europe

### Measures to improve the democratic participation of migrants

Report  
Committee on Migration, Refugees and Population  
Rapporteur: Mr John GREENWAY, United Kingdom, European Democrat Group

#### *Summary*

Levels of democratic participation in Europe are low. For migrants they are even lower.

The Committee on Migration, Refugees and Population considers it important that migrants be given a “fair share” in the democratic process and that steps are taken to allow them to participate more effectively in society.

Integration is a key to democratic participation of migrants and this needs to be a two-way process involving both migrant communities and the general population. The Committee on Migration, Refugees and Population puts forward recommendations to encourage the integration of both migrant men and migrant women in key areas such as education, language learning, creation of bridges between communities, within communities and with the authorities. It also makes recommendations to tackle racism, intolerance and discrimination and to promote integration at work and in housing.

A range of legal and policy measures can be taken to improve the democratic participation of migrants. The Committee puts forward proposals for facilitating access to nationality, granting long term residence status, regularising the situation of certain irregular migrants, granting voting rights to migrants at least at local level, and also ensuring that consultative bodies are established to ensure that migrants have a say and are consulted in matters affecting them.

The Committee calls for the ratification, where this had not been done by member states, of the Conventions on the Legal Status of Migrant Workers, on Nationality and on the Participation of Foreigners in Public Life at Local Level, and invites the relevant intergovernmental committees of the Council of Europe to analyse the implementation and barriers to the ratification of these Conventions.

The Committee also calls for an examination of restrictions on political rights of migrants (such as freedom of association) and invites the Bureau of the Parliamentary Assembly to consider how persons of migrant origin can be better represented within the Assembly itself.

## A. Draft resolution

1. According to the International Organisation for Migration there are over 64.1 million migrants in Europe and the number is constantly increasing. As this number increases so does the need to make sure that migrants are given a "a fair share" in the democratic process in Europe.
2. The level of democratic participation across Europe remains low, and particularly low for migrants.
3. Integration is a key for migrants' democratic participation. It not only facilitates participation but it also leads to a better understanding of shared values and respect for cultural differences which are essential for democratic development. It should always be regarded as a two way process involving migrants and the majority population.
4. Democratic participation is important for all individuals in society including migrants of first or later generations. For migrants, the earlier their opportunity for democratic participation the more likely they are to participate and integrate.
5. Migrants are not a homogenous group. They have different nationalities and ethnicities and they come to Europe for different reasons. Some come for work, studies, family reunion or to flee persecution or as victims of trafficking. A large number are irregular migrants. There are first and later generation migrants. Almost half the migrants in Europe are women.
6. Democratic participation can take many forms. It can include political participation through voting and standing for election, it can include exercising rights such as freedom of expression, thought, conscience and religion. It can cover freedom of association, including participation in political parties, joining trade unions and participation in demonstrations. Furthermore it can include participation in civil society, whether in migrant dedicated associations or other associations with wider remits including sports, arts, charity, philosophy or religion.
7. Democratic participation can take place at European, national, regional or local level. In practice it is at the local level that migrants' participation is the most important and effective. The Congress of Local and Regional Authorities of the Council of Europe thus has a particularly role to play at this level and has undertaken important work in the past including on the establishment of local consultative bodies for foreign residents. The European Commission for Democracy through Law (the Venice Commission) also has a role to play, having drafted a code of good practice in electoral matters.
8. The Parliamentary Assembly recalls its most recent Recommendation 1500 (2001) on Participation of immigrants and foreign residents in political life in the Council of Europe member states. It also notes the important standard setting of the Council of Europe through Conventions on the Legal Status of Migrant Workers (ETS No. 93), on Nationality (ETS No. 166) and on the Participation of Foreigners in Public Life at Local Level (ETS No. 144).
9. The Assembly recognises that much good practice has developed concerning the democratic participation of migrants. Drawing on this and with the intention of improving the integration and democratic participation of migrants across Europe, the Assembly calls on member states of the Council of Europe to:
  - 9.1. encourage integration as a facilitator for democratic participation of both women and men through;
    - 9.1.1. promoting integration as a non-discriminatory two-way process, with measures to combat racism and discrimination and encourage inclusiveness (such as diversity training for those working with migrants and benchmarking to ensure inclusiveness), steps to make members of the majority population aware of the different cultures of migrants and the need to avoid stigmatisation of migrants in the integration debate;
    - 9.1.2. education and learning the language of the host society. This is particularly important for women and new arrivals who should be provided with literacy courses, language training, civic awareness programmes and labour market training;

9.1.3. protecting rights and guaranteeing safety and stability. Particular attention should be paid to tackling racism, xenophobia, antisemitism, islamophobia and intolerance, paying attention at the same time to gender based discrimination and violence against women. Adequate follow-up should be given to the recommendations of the European Commission Against Racism and Intolerance (ECRI);

9.1.4. creating social bridges between communities including in areas such as sports and education and cultural, philosophical and religious activities;

9.1.5. creating social bonds within communities as a means of building confidence and acting as a stepping stone for other forms of participation;

9.1.6. creating social links to services and the communities to avoid exclusion and discrimination and to ensure that both women and men migrants are involved in the design and implementation of policies that affect them. Migrants should be represented and employed at all levels of administration and member states should consider establishing, where they do not exist, specialised ministries or departments of integration and mainstreaming integration issues within all relevant departments;

9.1.7. providing assistance in integrating into the work-place, security in employment, flexibility in changing employment and work permits and recognising the skills and qualifications of migrants. Special attention should be paid to migrant women who often work in areas where they may face exploitation, including in the informal economy;

9.1.8. providing fair access to quality housing achieving balanced neighbourhoods and preventing and reducing segregation;

9.2. remove the impediments to democratic participation by:

9.2.1. facilitating access to nationality through:

9.2.1.1. reducing residency requirements for acquisition of nationality to five years or less;

9.2.1.2. ensuring that other requirements such as naturalisation tests, language tests, income and housing requirements, fees, oaths do not become unduly onerous in their number and requirements;

9.2.1.3. removing or reducing restrictions on dual nationality;

9.2.1.4. taking into account the special situation of women and men refugees and their urgent need of nationality;

9.2.1.5. signing and ratifying the European Convention on Nationality;

9.2.1.6. ensuring that no unreasonable impediments to obtaining nationality are placed on second or later generation migrants;

9.2.2. granting long term residence status to those who have been in the country for five years or less without imposing extensive bureaucratic hurdles, high fees, onerous linguistic, housing, income or employment requirements;

9.2.3. regularising the situation of irregular migrants, who are not going to be returned to their countries of origin, in line with the Assembly Resolution 1568 (2007) on Regularisation programmes for irregular migrants;

9.2.4. granting to migrants voting rights, including the right to vote and the right to stand in local and regional elections after a residence period of 5 years or less;

9.2.5. signing and ratifying the Convention on the Participation of Foreigners in Public Life at Local Level;

9.2.6. lifting restrictions on the political rights of migrants to join political parties or form political associations and encourage political parties to include women and men of migrant background amongst their members;

9.3. facilitate participation by:

9.3.1. ensuring that migrants enjoy the right to consultation through the establishment of consultative bodies in accordance with the Convention on the Participation of Foreigners in Public Life at Local Level. These bodies should ensure they are representative of migrants and members of the local or other authorities and that women and men are represented equally. They should allow migrants and migrant associations the right to put forward candidates, have clearly defined objectives and should give priority to political activities including consultation and promotion of citizen participation. Furthermore these bodies should have the right to be informed and consulted and have the right to initiate consultation and receive a response;

9.3.2. supporting civil society initiatives for and by migrants which provide choices and options for migrants and lead to bridge building between communities and help create bonds within communities and facilitate links with the authorities. Particular attention should be paid to supporting initiatives coming from grassroots migrant women's organisations;

9.3.3. encouraging the media to portray a fair image of migrants and not stereotype them, taking also into account the double stereotyping that migrant women face in the media. Furthermore ensure that migrants are represented in the media as media professionals and that they are seen and that their views are heard;

9.3.4. supporting projects that encourage migrants and other members of the community to volunteer and participate in civil society;

9.3.5. supporting research on democratic participation of migrants, including, *inter alia*, research on good practices in participation and integration, barriers to participation, impact of integration and voting patterns of migrants;

9.4. ensure that irregular migrants are not excluded from all forms of democratic participation and that they enjoy their basic rights in accordance with Assembly Resolution 1509 (2006) on human rights of irregular migrants;

9.5. ensure the specific needs of women migrants are taken into account and distinguished from men in line with Assembly Recommendation 1732 (2006) and Resolution 1478 (2006) on Integration of immigrant women in Europe;

9.6. facilitate the increased democratic participation of migrants in their countries of origin.

10. The Assembly calls on the Congress of Local and Regional Authorities of the Council of Europe to continue its work on the participation of foreigners in public life at local level and in particular promote further the use of consultative bodies and the right to vote at a local level. Furthermore it calls on the Congress to further strengthen its activities encouraging the integration of migrants at the local level including through the European network of cities for local integration policies for migrants (CLIP).

11. The Assembly calls on the Council of Europe Commissioner for Human Rights to encourage member states to remove the impediments to democratic participation of migrants.

12. The Assembly invites the European Union to support, through the European Integration Fund, projects aimed both at integration and democratic participation of migrants. Support is also needed for projects providing indicators of democratic participation of migrants across greater Europe, gender-disaggregated where possible, and not just limited to the 27 member states of the European Union.

13. The Assembly invites its Bureau to consult the Committee on Rules of Procedure, Immunities and Institutional Affairs on whether any steps could be taken to ensure a better representation of persons of migrant origin in the membership of the Assembly.

## B. Draft recommendation

1. The Parliamentary Assembly refers to its Resolution ... (2008) on measures to improve the democratic participation of migrants.
2. The Council of Europe has an important role in promoting the democratic participation of migrants and has already contributed to this process, *inter alia*, through the adoption of Conventions on the Legal Status of Migrant Workers (ETS No. 93), on Nationality (ETS No. 166) and on the Participation of Foreigners in Public Life at Local Level (ETS No. 144).
3. The level of democratic participation of migrant women and men in Europe however remains low and further steps are needed to improve the situation, including through measures of integration which facilitate the participation of migrants in democratic life and society.
4. Therefore, the Assembly recommends that the Committee of Ministers:
  - 4.1. instruct the European Committee on Local and Regional Democracy (CDLR) and its Committee of Experts on Democratic Participation and Public Ethics at Local and Regional Level (LR-DP) to analyse the implementation, in all member states of the Council of Europe, of the standards laid out in the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No. 144) and examine the obstacles for ratification of this instrument;
  - 4.2. instruct the European Committee on Migration (CDMG) to examine how integration programmes and equal treatment and opportunity programmes in member states should be adapted in order to promote the democratic participation of migrants;
  - 4.3. instruct the Steering Committee for Human Rights (CDDH) to examine the restrictions on the political rights of migrants (in particular the rights of migrants to join political parties or form political associations) with a view to furthering the democratic participation of migrant women and men;
  - 4.4. instruct the European Committee on Legal Co-operation (CDCJ) to examine the implementation in all member states of the standards under the European Convention on Nationality and its state of ratifications;
  - 4.5. instruct the Steering Committee for Equality between Women and Men (CDEG) to evaluate the democratic participation of migrant women and men when monitoring the implementation of Recommendation Rec (2003) 3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making;
  - 4.6. invite the European Commission for Democracy through Law (Venice Commission) to examine the constitutional impediments to granting the right to vote to migrants, primarily at the local and regional levels and provide assistance for constitutional reform to these states as necessary;
  - 4.7. invite the European Commission against Racism and Intolerance (ECRI) to monitor continuing discrimination, racism and intolerance as a hindrance to the democratic participation of migrants, and respect its advice.

**C. Explanatory memorandum by Mr Greenway, rapporteur**

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**I. Introduction**

1. The number of migrants in Europe is constantly rising. It is a phenomenon which is likely to continue as birth rates fall, the population ages and Europe remains hungry for workers who come both legally and illegally into Europe.

2. The International Organisation for Migration (IOM) estimates<sup>1</sup> the number of migrants living in Europe in 2005 at 64.1 million, representing 8.8 % of the population. Three years on, the figure now will be much higher, especially if the substantial number of irregular migrants within Europe's borders are taken fully into account. Any analysis of the state of democracy in Europe therefore needs to take into account the extent to which this vast number of migrants and their communities engage with and are involved in the democratic process.

3. It is at the heart of democracy that all members of a community should have a share in the decision making process relating to that community. Migrants can make an important contribution to the communities in which they live and there is an increasing awareness across Europe that they should be given "a fair share" in the political process and allowed to participate fully in the political, social and cultural life of member states of the Council of Europe. This means much more than just engagement in the political process. Many features of contemporary society are organised on democratic principles, whether in sport, the arts, schools, churches or charities and the governance of a wide range of organisations increasingly depend on management committees and boards of trustees or governors. More often than not committee or board membership is determined by the electoral process and the willingness of individuals to take on the responsibility of management and supervision on a voluntary basis.

4. With growing awareness of the vital importance of integration<sup>2</sup> of migrants into local communities, much greater effort should be made by member states of the Council of Europe to encourage migrants to get involved in local grass roots associations and clubs and to encourage these organisations to be receptive to migrants. This can be an important first step towards increased involvement in the political process by migrants who may increasingly come to recognise the relevance of participation in affecting change in their local community and society in general.

5. Democratic participation should also be seen in the context of access to services such as health, education and housing. Such access must be based on the principle of fair procedures and access to legal redress. This is particularly important when considering the rights of migrant children, elderly migrants and migrants facing social exclusion. In all these areas a sense of fairness, equity and justice is the prerequisite of ensuring that migrants feel able to integrate into the communities where they live.

6. Integration should always be seen as a two way process, implicating both migrants and the population at large and requiring mutual recognition by all those involved.

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<sup>1</sup> International Organisation for Migration, World Migration Report 2005: Costs and Benefits of International Migration

<sup>2</sup> It is important never to confuse integration with assimilation.

7. Such integration brings with it an understanding of shared values and respect for cultural differences which are essential for democratic development. So the challenges of democratic participation and integration of migrants are very much interlinked and can be viewed as mutually reinforcing elements.

8. Democratic participation across Europe remains low and this is the case not only for migrants but also for the population at large. For migrants, however, this democratic deficit is greater and even greater for migrant women.

9. This report therefore intends to look at how democratic participation for migrants can be improved and the legal, political and structural steps that can be taken to facilitate this. It also plans to look at the issue of integration and how this can have a bearing on democratic participation and how democratic participation can in turn have an influence on integration.

10. Improving the democratic participation of migrants is not something that can be done over-night. It is a complicated multi-faceted issue that requires sustained effort over time. In Belgium, for example, the right to vote for third country nationals at local elections was only won after a long battle, and after tackling strong anti-immigrant sentiments.

11. Democratic participation can take place at different levels. It can take place at local, national or European levels. It is perhaps however at the local level that democratic participation is the most effective and relevant for migrants, in particular if naturalisation is not an option.

12. Democratic participation is important for all migrants whether they come from the first or later generations. This report will concentrate, although not exclusively, on the challenges faced by first generation migrants. The earlier their opportunities for democratic participation the greater their chances for successful integration and democratic participation. Democratic participation can also take place in the country of origin of migrants, and migrants should be encouraged to continue such participation where relevant. This issue is not however dealt with in the context of this report.

13. In preparing this report your Rapporteur would like to recognise the support and advice of all those involved in the consultation process. He would particularly like to thank the Migration Policy Group (MPG) and the Churches Commission for Migrants in Europe (CCME) for their guidance<sup>3</sup>.

## **II. Understanding the democratic participation of migrants in the context of the population at large**

14. Democratic participation can take many forms. It can include political participation in terms of voting and standing for election, it can include exercising other political rights such as freedom of expression, thought, conscience and religion. It can cover freedom of association, including participating in political parties, joining trade unions, demonstrating, etc. Furthermore it can include participating in civil society whether this be taking part in associations, including specialised associations for migrants, church organisations, school associations, etc.

15. What is important to note is that participation in any of these activities is likely to have a spill over effect into other activities. The more confident a migrant is in taking part in any single form of participation, the more likely he or she is to widen that experience.

16. It is extremely difficult to quantify the level of democratic participation of migrants across Europe and much more research is needed in the future. There are nonetheless a range of academic studies which point to low levels of democratic participation of migrants, including for Europeans living outside their countries of origin.

17. One of the important sources for this type of information is the European Social Survey<sup>4</sup>. Taking the statistics from this survey a study has been done of civic participation rates of migrants in 22 European

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<sup>3</sup> The sources have been referred to in the footnotes in this report. Of particular importance for this report were the following: the Migrant Integration Policy Index (MIPEX); the POLITIS project; the Handbook on local consultative bodies for foreign residents published by the Council of Europe; "*Highly Active Immigrants, a resource for European civil societies*" of Dita Vogel; the briefing paper edit by the European Parliament, "*Trends in the EU-27 regarding participation of third-country nationals in the host country's political life*".

<sup>4</sup> <http://www.europeansocialsurvey.org/>

countries<sup>5</sup>. In Germany the participation rate of nationals was found to be 57.9% while the figure for migrants was much lower at 34%. For France the rates were 53.2% for nationals and 48.1% for migrants. For Hungary the rates were 19.7% and 17.2% and for Estonia the figures were 17.7% and 14.8% respectively for nationals and migrants. It is interesting to note however that not all countries had lower participation rates for migrants and Portugal, for example, the rate for nationals was 18.1% and 22.4% for migrants.

18. This survey also examined overall the civic participation of natives and migrants in terms of membership of trade unions and parties, work for political parties or action for other groups or associations and symbolic action (signing petitions, demonstrating, etc.). Here the overall participation rate for nationals was 49.83% of natives while only 38.96% of immigrants were found to be active<sup>6</sup>.

19. Higher disparities of participation will of course arise when one looks specifically at some of the political forms of participation in particular where there are legal restrictions on the right to vote or the right to form and join political parties.

20. When looking at migrants' participation it is important to take into account that migrants are not a homogenous group. They come from different countries and often have very different life experiences. The extent of their participation in their host country will depend on a range of factors. These can include:

- the level of democratic participation generally in their home country
- the level of their own experience or that of their family before migrating
- the level of engagement generally in the host society
- the cultural links and proximity, between the home country and the host country
- the level of individual motivation of the persons concerned
- the level of their integration and factors that promote integration in their host country

21. Research has shown that each of the above has a positive influence on the level of democratic participation of the migrant. Another important influence is the life experience of the persons concerned (whether they are highly skilled workers, refugees, students, seasonal workers, persons joining a spouse under family reunion, irregular migrants, first or second generation migrants, etc.). A further important differential is whether the migrant is a European Union national or not.

22. It is clear that some ethnic or national groups are more active than others in Europe. In one research project it was found that Eastern Europeans tended to be less active than Asians, Latin American and Africans. Russian and Albanian migrants were found to be amongst the least active, while Iranians and Indonesians were shown to be the most active<sup>7</sup>.

23. In devising measures to improve the democratic participation of migrants it is therefore important to take into account the myriad of different experiences of migrants and the different factors affecting their levels of participation and integration. In devising measures states should not consider measures as mutually exclusive "either, or" options, but rather as interlocking mechanisms for promoting the democratic participation of migrants. For example granting the right to vote at a local level does not excuse a state from examining the need for establishing consultative bodies or providing support for migrant associations or other civil society initiatives affecting migrants.

### **III. The role of the Council of Europe in improving the democratic participation of migrants**

24. The Council of Europe attaches the utmost importance to improving the democratic participation of migrants. The Assembly has played, and will continue to play, a major role in seeking to achieve further progress in this area. The Assembly believes such progress to be critical in reducing xenophobia and racial tension.

25. The Assembly has adopted Recommendation 1500 (2001) on the participation of immigrants and foreign residents in political life in the Council of Europe member states. The Council of Europe has its own

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<sup>5</sup> Maria Aleksynska, "Quantitative Assessment of Immigrants' Civic Activities – Exploring the European Social Survey", Chapter 4, page 63, 69 in Dita Vogel, (ed.), "European Social Survey referred to in Highly Active Immigrants a resource for European civil societies", Frankfurt am Main, Berlin, Bern, Brussels, New York, Oxford, Wien, 2008.

<sup>6</sup> The European Social Survey covered 76, 467 natives and 3,986 immigrants in the survey.

<sup>7</sup> Maria Aleksynska, "Quantitative Assessment of Immigrants' Civic Activities – Exploring the European Social Survey", Chapter 4, page 63, 69 in Dita Vogel, (ed.), "European Social Survey referred to in Highly Active Immigrants a resource for European civil societies", Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008.

conventions on the Legal Status of Migrant Workers (ETS 93), on Nationality (ETS no. 166) and on the Participation of Foreigners in Public Life at Local Level (ETS No.144). The Council of Europe Congress of Local and Regional Authorities has carried out important work on the issue and has adopted Resolution 141 (2002) and Recommendation 115 (2002) on the participation of foreign residents in local public life: consultative bodies, Resolution 181 (2004) and Recommendation 153 (2004) on a pact for the integration and participation of people of immigrant origin in Europe's towns, cities and regions. The Congress has also published a "handbook" on local consultative bodies for foreign residents.

26. In the intergovernmental sector, the European Committee on Migration (CDMG) works on many issues involving integration of migrants and as far back as 1992, the Committee of Ministers<sup>8</sup> in a Recommendation on Community Relations called for encouraging "the fullest participation of migrants and persons of immigrant origin in the life of the society of the country in which they live". The CDMG has published a series of reports as part of Community Relations project<sup>9</sup> together with a Framework of integration policies<sup>10</sup>. The Committee of Experts on Democratic Participation and Public Ethics at Local and Regional Level examines regularly, *inter alia*, obstacles for acceding to the Convention on the Participation of Foreigners in Public Life at Local Level and at the Conference of European ministers responsible for local and regional government (Valencia, 2007)<sup>11</sup> the Ministers emphasised "the importance of securing the effective and appropriate participation of all, both citizens and foreigners, in public life at local level".

27. The European Commission for Democracy through Law (Venice Commission) has in the past looked at constitutional impediments to participation of migrants in elections. Moreover, the Code of Good Practice in Electoral Matters drafted by the Venice Commission, supported by the Parliamentary Assembly<sup>12</sup> and by the Congress of Local and Regional Authorities<sup>13</sup>, and which the Committee of Ministers encouraged member states to take account of<sup>14</sup>, provides that "it would be advisable for foreigners to be allowed to vote in local elections after a certain period of residence<sup>15</sup>".

28. The European Commission against Racism and Intolerance (ECRI) regularly monitors all member states of the Council of Europe and adopts general policy recommendations on all forms of discrimination, racism and intolerance. Within the context of its country by country reports, integration is one of the themes regularly covered.

29. The Advisory Committee on the Framework Convention for the Protection of National Minorities regularly monitors the effective participation of persons belonging to national minorities under Article 15 of the Framework Convention<sup>16</sup> and has published in 2008 a commentary<sup>17</sup> on the issue. While this applies to national minorities it also has a relevance to migrants.

30. In the course of this report, further reference is made to some of the above work and also other activities of the Council of Europe relevant to the democratic participation of migrants.

<sup>8</sup> See Recommendation No R (92) 12 of the Committee of Ministers to Member States on Community Relations

<sup>9</sup> Some examples of works published in the Community Relations series, include: Political and social participation of immigrants through consultative bodies (1999), measures and indicators of integration (1998), Community and ethnic relations (1991), initiatives by employers to promote employment and integration of immigrants (1998). [http://www.coe.int/t/dg3/migration/Documentation/Default\\_public2\\_en.asp](http://www.coe.int/t/dg3/migration/Documentation/Default_public2_en.asp)

<sup>10</sup> This booklet brings together the recommendations and proposals of various Council of Europe bodies. [http://www.coe.int/t/dg3/migration/Documentation/Series\\_Community\\_Relations/Framework\\_Integration\\_policies\\_2000\\_en.pdf](http://www.coe.int/t/dg3/migration/Documentation/Series_Community_Relations/Framework_Integration_policies_2000_en.pdf)

<sup>11</sup> See the Declaration on democratic participation and public ethics at local and regional level (MCL-15(2007)5 final)

<sup>12</sup> Resolution 1320(2003) and Recommendation 1595 (2003) on a Code of Good Practice in Electoral Matters.

<sup>13</sup> Resolution 148 (2003) and Recommendation 124 (2003) on a Code of Good Practice in Electoral Matters.

<sup>14</sup> See Declaration by the Committee of Ministers on the Code of Good Practice in Electoral Matters (adopted by the Committee of Ministers on 13 May 2004 at its 114th Session)

<sup>15</sup> CDL-AD(2002)023rev, I.1.1.b.2.

<sup>16</sup> Article 15 provides that "The parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and public affairs, in particular those affecting them.

<sup>17</sup> Commentary on the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs (ACFC/31DOC(2008)001).

#### IV. Integration as the key to participation

31. The preface to the Handbook on Integration for policy-makers and practitioners<sup>18</sup> sums up eloquently the reasons why integration is essential for our European societies:

“Integration of immigrants is vital for social cohesion and economic development. To enable immigrants to feel part of our society we must treat them fairly, and ensure that they have the right tools to participate fully in our societies. Integration is a continuous, two-way process which is based on mutual rights, and corresponding obligations both of immigrants and of the host society.”

32. The Ministers Responsible for Migration Affairs of the Council of Europe at their 7<sup>th</sup> Conference in Helsinki underlined the importance of this integration and the need for this to be a two way process. In the Final Declaration<sup>19</sup> they undertook:

“to promote an open and welcoming society and to encourage the participation of lawfully residing migrants in economic, social, cultural and political life by, inter alia:

- a. recognising the positive contribution that migrants make to society;
- b. associating the host community and migrants in activities aimed at promoting mutual understanding
- c. encouraging migrants and receiving society to undertake common activities in favour of the local community and development of civil society;
- d. implementing introduction programmes for newcomers, actively encouraging immigrants to learn the language of the receiving country as well as to understand and respect the institutions and the fundamental values of the host society;”

33. Your Rapporteur starts from the premise that integration is a great facilitator of democratic participation and that democratic participation can help migrants along the path to integration. In the view of your Rapporteur, integration should not be seen as a prerequisite for democratic participation, as the two need to go hand in hand.

34. Your Rapporteur is aware that discussions on integration of migrants often focus on long term integration. Migrants however often do not plan to stay long term. Furthermore migrants are becoming increasingly mobile. Part of the challenge therefore is to take into account that migrants live with an uncertain future and that integration measures and opportunities for democratic participation also need to be available for those with an uncertain future.

35. While integration takes place at all levels, it is at the local level that it is the most effective and relevant. Local authorities therefore have a responsibility to adopt effective and flexible policies. Your Rapporteur notes the work undertaken by the Congress in this respect<sup>20</sup>.

36. In this part of the report your Rapporteur proposes looking at some of the key indicators of integration<sup>21</sup> and their interaction with democratic participation. For migrants to be able to participate they need time, they need money and they need security. They also need a command of the local language and they need certain skills including language proficiency. Integration is thus the enabler for migrants which helps them to benefit from the opportunities for democratic participation on offer.

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<sup>18</sup>European Commission, Directorate-General Justice, Freedom and Security, *Handbook on Integration for policy-makers and practitioners*, second edition May 2007. Handbook prepared by Jan Niessen and Yongmi Schibel of the Migration Policy Group.

<sup>19</sup> 7<sup>th</sup> Conference of Ministers Responsible for Migration Affairs, Helsinki, 16-17 September 2002, Final Declaration (MMG-7(2002)1, paragraph 25.

<sup>20</sup> See in this respect the creation of a network for structured exchange of experiences on all issues that could favour the integration of migrants and above all enhance the quality of policy-making at local level. This network, the CLIP (Cities for Local Integration Policy) Network, was launched in September 2006 in Dublin by the Congress with co-founders, the European Foundation for the Improvement of Living and Working Conditions (Dublin Foundation) and the City of Stuttgart. The network, which currently numbers around 30 cities, has already started to examine a number of topics, including housing, which is referred to later in this report, and diversity policy.

<sup>21</sup> These key indicators have been taken from the *“Indicators of Integration, final report”*, by Alastair Ager and Alison Strong, Home Office Development and Practice Report, Research Development and Statistic Directorate, Queen Margaret University College, Edinburgh, 2004. <http://www.homeoffice.gov.uk/rds/pdfs04/dpr28.pdf>. The Council of Europe has also developed a much more developed set of “social cohesion indicators” which are contained in a Methodical Guide (2005) entitled “Concerted development of social cohesion indicators”.

37. Your Rapporteur is aware of a shifting perception of integration at European level. Traditionally integration measures have been seen as for the benefit of migrants in order to tackle disadvantage and allow for equal participation. There is however a creeping tendency in some states to consider integration as a responsibility of migrants and even to consider applying penalties to migrants who fail to integrate sufficiently. The application of tests, learning obligations and in some instances penalties is not without problems from a human rights perspective, in particular where these measures may be applied on a discriminatory basis to certain groups. This issue will need to be looked at further by the Assembly in the future.

*i. Education*

38. Education is highly relevant both for integration and also for democratic participation. This is backed up in literature on the subject<sup>22</sup>. Education services are delivered locally and provide an ideal opportunity for migrant participation in schools, colleges and extra curricular activity. Education is extremely important as one of the confidence building measures which gives migrants greater opportunities to find work, develop skills and build confidence to integrate and participate in democratic life.

39. Education may be in the form of introductory programmes. Immigrant friendly education institutions can give migrants a head start providing them with the skills and confidence to move forward in their new societies. Often these programmes have three elements including language training, civic awareness and labour market training<sup>23</sup>. Adult education is also important for adult migrants who may not have had the same level of opportunities in their countries of origin.

40. An example of good practice in terms of introductory programmes can be taken from the city of Gent in Belgium which provides up to 1,200 hours of Dutch classes and 75 hours of “society orientation” including practical and administrative information. The city also provides a “custom made” individual reception programme with guidance on employment, education and training<sup>24</sup>.

41. Education is however important at all levels of the education system, from primary, through secondary on to tertiary level and adult education.

42. The Committee of Ministers of the Council of Europe has adopted an important recommendation (Rec (2008) 4) on strengthening the integration of migrant children. This gives detailed guidance on integration into school life, including in disadvantaged and segregated areas. It focuses on the importance of language learning, staff recruitment (including having teachers of immigrant background) and training (to deal with non native mother tongue children and to tackle intercultural education). It calls on schools and authorities to promote an atmosphere of hospitality, tolerance and respect for diversity at school and to take particular measures for the integration of new immigrant children into school life. The recommendation also highlights the importance of supporting civil society, migrants and their associations, the need to support the parents of migrant children and the need to facilitate the transition from school into the labour market.

43. In the view of your Rapporteur the parental role of migrant parents needs to be supported and strengthened, and this is backed up in the above mentioned Recommendation of the Committee of Ministers. Migrants who are parents, irrespective of their backgrounds, need to be encouraged to be active in schools and parent organisations. This participation of parents is important not only for their children's progress and integration, but also for their own society links and democratic experiences.

44. One problem which migrants often face is that their levels of education are not formally recognised, leaving them in jobs which are well below their levels of skills and experience. Member states should encourage qualification setting bodies to provide a framework which allows employers to recognise the qualifications obtained abroad by migrants in order to ensure their participation at appropriate levels in the work place. This will undoubtedly help migrants in terms of their confidence, earning power, integration and willingness and ability to participate in a democratic society.

*ii. Social bridges (between communities)*

<sup>22</sup> See for example, Dita Vogel, (ed.), “*Highly Active Immigrants, a resource for European civil societies*”, Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008; page 28.

<sup>23</sup> European Commission, Directorate-General Justice, Freedom and Security, “*Handbook on Integration for policy-makers and practitioners*”, second edition May 2007, page 14.

<sup>24</sup> [www.gent.be/integratiedienst/](http://www.gent.be/integratiedienst/), Kom-Pas Centre: kom-pas@agent.be Referred to in the *Handbook on Integration for policy-makers and practitioners*, page 14.

45. The creation of social bridges between communities is an essential element in the two way process of integration. This mixing encourages social cohesion and a widening of cultural understanding and leads to greater economic opportunities<sup>25</sup>.

46. These bridges can be established at many levels and can be linked to sports, education, cultural, religious or other activities. Good practices abound<sup>26</sup>. In Germany, for example, the Abrahamic Forum<sup>27</sup> brings together Christians, Muslims and Jews. In the United Kingdom the Interfaith Network<sup>28</sup> works on a broad basis and seeks to foster good relations between the Baha'i, Buddhist, Christian, Hindu, Jain, Jewish, Muslim, Sikh, and Zoroastrian faiths. There are thought to be 130 local inter-faith groups, councils and forums in the United Kingdom according to research carried out by this Network. Schools play a particularly important role and can provide bridges not only between children, but also between parents.

47. The lack of social bridges, in particular when combined with the lack of social bonds and social links, can ruin prospects for integration and democratic participation. The lack of these bridges affects not only the confidence of migrants and their trust but can also lead to exclusion, alienation and extremism, particularly amongst young migrants<sup>29</sup>. Adequate support needs to be given by the authorities to creating such social bridges, including through the provisions of funding for civil society initiatives.

iii. *Social bonds (within communities)*

48. Social bonds within communities would appear to have significant importance for democratic participation and researchers have noted that "the denser a particular ethnic group's network of associations and the higher the level of membership in associations, the more political trust they will have and the more they will participate politically"<sup>30</sup>. This was for example found to be the case in Amsterdam when comparing the experience of the Turkish community with that of the Moroccan community. The Turkish community with its denser networks and greater political trust had higher levels of participation than the Moroccan community<sup>31</sup>.

49. Social bonds are also important to avoid the risk of assimilation and to avoid the risk of isolation and loss of identity.

50. Support for social bonds within communities should not be seen as encouraging separatism, but rather as a form of confidence building and a stepping stone for further participation in society. The authorities should therefore be encouraged to provide support, including funding, for initiatives leading to the creation of social bonds within communities.

51. Of the many projects worthy of mention, the "INVOLVE project on the integration of third country nationals through volunteering"<sup>32</sup> can be highlighted. This project examined the best practices in 7 countries in Europe and demonstrated how volunteering can foster social bonds in society and at the same time create a feeling of belonging for migrants, both within migrant communities and within society as a whole.

iv. *Social links (to services and the community)*

52. Local services need to be able to respond to the needs of migrants in all sectors including in terms of housing, education, employment and social or other services. Migrants often have difficulties in accessing these services because of linguistic barriers, cultural differences and lack of knowledge and experience of how the system works.

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<sup>25</sup>Alastair Ager and Alison Strong, Home Office Development and Practice Report, Research Development and Statistic Directorate, "Indicator of Integration - final report", Queen Margaret University College, Edinburgh, 2004, page 18.

<sup>26</sup>The examples given are taken from the *Handbook on Integration for policy makers and practitioners*, page 39.

<sup>27</sup>[www.interkultureller-rat.de](http://www.interkultureller-rat.de)

<sup>28</sup>[www.interfaith.co.uk](http://www.interfaith.co.uk)

<sup>29</sup>Dirk Jacobs and Jean Tillie, "Social Capital and Political Participation of Immigrants in Europe – Key developments in empirical studies", page 55, in Dita Vogel, (ed.), "Highly Active Immigrants a resource for European civil societies", Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008.

<sup>30</sup>Dirk Jacobs and Jean Tillie, "Social Capital and Political Participation of Immigrants in Europe – Key developments in empirical studies", page 55, in Dita Vogel, (ed.), "Highly Active Immigrants a resource for European civil societies", Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008.

<sup>31</sup>Fennema, M. and Tillie, J. (1999) "Political Participation and Political Trust in Amsterdam. Civic Communities and Ethnic Networks", *Journal of Ethnic and Migration Studies*, 25 (4): 703-726.

<sup>32</sup>[http://www.cev.be/43-involve\\_integration\\_of\\_migrants\\_through\\_volunteering\\_-EN.html](http://www.cev.be/43-involve_integration_of_migrants_through_volunteering_-EN.html)

53. Inclusion strategies have to be developed by local authorities at an organisational level. These strategies need to include migrants, not only in their design, but also in their implementation. Civil society organisations delivering support to migrants need to be provided with resources. The more migrants that are involved in the process the more likely they are to integrate and develop further their skills and willingness to participate in other aspects of democratic life. Staff working for local authorities needs to be trained or specialised to deal with the demands of a multi-cultural society. Interpreters or interpretation services need to be available. In Italy an example of good practice can be cited. Sixty cultural mediators of either Italian or migrant background are attached to the public social structure of six regions of Southern Italy and there are a further thirty mediators working in local employment offices<sup>33</sup>.

54. Migrants are particularly sensitive to slow and inefficient bureaucratic procedures whether in immigration matters or in their daily dealings in the community. Differentials and discrimination weigh heavily on them and hamper integration and do not foster a desire for participation at a democratic level<sup>34</sup>. It is therefore essential that these social links to services are encouraged and facilitated.

55. One area of good practice developing in a number of member states is the creation of specialised departments or ministries dealing with integration issues or issues affecting migrants both at national and local levels. There are also examples where these ministries are themselves headed by persons of ethnic migrant background. In Sweden, for example, there is a Ministry of Integration and Gender Equality. The Minister, Nyamko Sabuni, is a woman born in Burundi. These specialised departments help to focus attention on integration issues, but should not be seen as a replacement for the need to mainstream integration issues in all services.

#### v. *Language*

56. Linguistic confidence certainly plays an important role and this combined with educational levels can have an important impact on self confidence and the willingness and ability of migrants to participate. This participation can be in some of the most basic forms such as in meetings, writing letters, or simply communicating with others. Linguistic skills allow for social connections with other communities and for access to basic services.

57. The need to learn the language of the host society may even start before day one of arrival in the country. In the Netherlands, for example, knowledge of Dutch is required and tested before many migrants are entitled to enter the country. Such stringent requirements may better equip migrants for when they arrive in the country, but they should not be used to set up barriers to migration, particularly when they relate to family reunification. These requirements should take into account that women's literacy in many societies is still very low. A gender sensitive approach has therefore to be in place so that migrant women would not be discriminated from such measures.

#### vi. *Safety and stability. Countering racism, xenophobia and intolerance*

58. Experiences in suffering racism, xenophobia and intolerance may put migrants off participating in democratic and political life due to feelings of rejection and fear. They may also lead to isolation and extremism. For the most part they do not foster an environment which promotes democratic participation. Sometimes, however, they may have the opposite effect and may act as a motivation for seeking change, righting wrong or helping others who may face similar problems.

59. The Council of Europe and member states are already well aware of their responsibilities for countering racism, xenophobia and intolerance. The regular country reports and general policy recommendations of the Council of Europe's European Commission Against Racism and Intolerance (ECRI) are a constant reminder of the steps they should be taking to combat these problems.

60. Civil society is particularly vibrant in mobilising the general public, the media and the authorities against racism, xenophobia and intolerance. States have developed increasingly effective legislation and

<sup>33</sup> European Commission, Directorate-General Justice, Freedom and Security, "*Handbook on Integration for policy-makers and practitioners*", second edition May 2007; page 35.

<sup>34</sup> Dita Vogel, (ed.), "*Highly Active Immigrants, a resource for European civil societies*", Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008, page 29 and 30. Comment is made that "In comparing interviews (POLITIS project), the most common denominator seems to be the demand for fair treatment and transparent, respectful bureaucratic procedures. Promoting such policies facilitates immigrant participation at local, national and EU-level."

specialised bodies for taking action to combat these problems. States should not however be complacent when dealing with these problems and should follow up on the recommendations of ECRI, in particular in terms of legislative and policy measures and measures to strengthen specialised bodies dealing with discrimination issues.

61. The Council of Europe “All Equal - All Different” campaign<sup>35</sup> is an example of good practice in seeking to tackle racism, xenophobia and intolerance, implicating young persons across Europe in a range of activities tackling discrimination and promoting diversity, human rights and participation.

*vii. Rights and responsibilities*

62. Guaranteeing the rights of migrants is one of the ways to make migrants feel secure and to encourage their integration and democratic participation.

63. Attempts at an international level to strengthen the rights of migrants have not however been a complete success and the road to acceptance of a general framework for rights of both regular and irregular migrants at a European level remains long.

64. At an international level the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has been ratified by a relatively few number of states. Only three Council of Europe member states have ratified this treaty (Azerbaijan, Bosnia and Herzegovina and Turkey). The Council of Europe’s own Convention on the Legal Status of Migrant Workers (ETS 93) has only been ratified by 11 countries. Other Conventions of the Council of Europe having a bearing on migrants have similarly not found great favour from member states of the Council of Europe. The European Convention on Nationality (ETS no. 166) has received 16 ratifications and the Convention on the Participation of Foreigners in Public Life at Local Level (ETS No.144) has received only 8 ratifications.<sup>36</sup> The European Social Charter (and the Revised European Social Charter) have a range of provisions protecting the rights of migrant workers and their families. There are, however, still too many states that have not ratified the Charter or the revised Charter, and the provisions relating specifically to migrants and their families apply only to “nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned.” One of the strengths of the Charter and the Revised Charter is, however, that it allows the possibility of “Collective Complaints”. This is a mechanism which is being increasingly used by international non-governmental organisations, and further steps are needed to encourage International NGOs working on migrants’ issues to take up collective complaints where appropriate.

65. Your Rapporteur is concerned by the mixed message being sent by too many member states of the Council of Europe concerning their commitment to the rights contained in these different Conventions. For the most part these rights reflect standards already accepted in other treaties or already being applied by these states and it should not be difficult for states to ratify these instruments. Failure to ratify these instruments sends the wrong message to migrants that States are unwilling to take a stand on the rights of migrants.

66. Your Rapporteur therefore encourages member states to ratify these instruments as a matter of priority.

67. Alongside rights, migrants have responsibilities and under certain circumstances countries of origin of migrants also have responsibilities. The Global Commission on International Migration has recommended that “migrants should ideally be provided with a clearly written statement of their rights and obligations when they are admitted to a country, thereby encouraging them to become active citizens from the earliest possible moment<sup>37</sup>”. The Global Commission also highlighted the dangers arising when migrants or migrants’

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<sup>35</sup> In 1995 the Council of Europe ran a European Youth Campaign entitled “All Different – All Equal” in order to reinforce the fight against racism, anti-Semitism, Xenophobia and Intolerance. From June 2006 to September 2007, the Council of Europe ran a further Campaign for Diversity, Human Rights and Participation, based upon the same slogan and using the same successful logo. <http://alldifferent-allequal.info/?g=node/35>.

<sup>36</sup> The Committee of Experts on Democratic Participation and Public Ethics at Local and Regional Level (LR-DP) has relaunched a new survey on the obstacles to acceding to this Convention (see LR-DP (2008)4) according to information from the last survey (24 May 2005) 7 states had ratified, 6 states were envisaging ratifying and 11 states indicated they may ratify. Only 1 state did not envisage ratifying.

<sup>37</sup> Report of the Global Commission on International Migration, “*Migration in and interconnected world: New directions for action*”, page 47.

organisations reject integration because they are against the values and the culture of the society in which they live. Migrants have a responsibility to accept the laws, customs and values of their host societies. They also have responsibilities to the wider community in which they live in terms of participation and giving something to the community. They may campaign for peaceful change using democratic means, but if they cannot respect the law and the constitution they should leave the country<sup>38</sup>.

*viii. Security in the areas of employment and housing*

68. Employment is important for a range of reasons. It creates a link between communities, it helps migrants join social networks, it allows migrants the possibility of involvement in trade unions or other associations, and it allows migrants to have a guaranteed income. Persons who have a secure livelihood and income are much more likely to be involved in democratic participation. Too many migrants remain unemployed and are remunerated at lower levels than nationals

69. Those without a secure livelihood are going to struggle to make ends meet and are unlikely to have the time, energy or opportunity to involve themselves in democratic participation. They are more likely to struggle to become integrated. Those in an irregular situation do not have the right to work. They are likely to struggle to obtain work and will remain in a vulnerable situation and open to exploitation. Major hurdles exist for their integration and their democratic participation.

70. It is important that migrants be given assistance in integrating into the work-place with language training and training in the skills necessary to compete in the market place. Women migrants face particular problems accessing the labour market. Migrants also need to be secure in their employment and have flexibility in changing their employment and work permits. Their work permits should not be tied to an employer as this encourages exploitation and other difficulties for the migrant if he or she loses his or her job. The skills and qualifications of migrants need to be recognised and they should enjoy the right to join and participate fully in trade unions<sup>39</sup>.

71. In Europe, Sweden probably has the best practices in terms of labour access for migrants. According to the MIPEX Labour Market Access study<sup>40</sup>, "any migrant in Sweden with a permit of at least one year is eligible to work in most sectors or to become self-employed with a viable business plan, just like an EU national. The state helps unemployed migrants through Swedish language and vocational training. In addition....all migrants who have lived and worked (which includes caring for children under 10) in Sweden for two years have equal access to study grants as Swedes. Migrants who find a job have the right to change their permit, job and industry, after less than one year. Migrants who lose their jobs do not necessarily lose their right to stay in Sweden".

72. In the Final Declaration of Ministers responsible for migration affairs, Helsinki (16 -17 September 2002), Ministers made a clear statement and undertaking on the need to promote equal access to employment for lawfully residing migrants. Ministers also undertook to promote equality by recognising the equivalence of diplomas, qualifications and skills, ensuring equal treatment for migrants in the workplace, adopting diversity management in human resources and encouraging the participation of migrants in trade unions and company committees.

73. Access to quality housing is also extremely important for integration. Much of the accommodation in Europe for migrants is of low quality and sometimes barely habitable and often cramped in ghetto like environments. This does not lead to integration and does not create confidence or a sense of belonging which are essential for the process of democratic involvement and participation. Further steps are needed to tackle discrimination in the housing sector and achieve balanced neighbourhoods and prevent or reduce segregation<sup>41</sup>.

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<sup>38</sup> Report of the Global Commission on International Migration, *Migration in and interconnected world: New directions for action*, page 48.

<sup>39</sup> MIPEX, Labour Market Access study and in particular the best case and worst case scenarios. [http://www.integrationindex.eu/integrationindex/index\\_browse.jsp](http://www.integrationindex.eu/integrationindex/index_browse.jsp)

<sup>40</sup> MIPEX, Country profile of Sweden, Labour Market Access study.

<sup>41</sup> Along these lines the Committee on Social Cohesion of the Chamber of Local Authorities of the Congress of Local and Regional Authorities has prepared a draft Resolution and draft Recommendation on improving the integration of migrants through the local housing policies (CPL(15)5RES) and (CPL(15)5REC) .

ix. *Integration as a two way process*

74. Integration should be seen as a challenge and not a burden. It is a challenge both for migrants and their host societies. In the final Declaration of the 7<sup>th</sup> Conference of Ministers responsible for migration affairs, (Helsinki, 16 – 17 September 2002), the Ministers undertook “to consider integration as an interactive process based upon mutual willingness to adapt by both migrants and the receiving society”.

75. The European Commission against Racism and Intolerance (ECRI) has also on many occasions highlighted the importance of integration as a two way process. In a recent report it said that “measures taken ...should extend to society as a whole and not exclusively focus on immigrants, in order to avoid their stigmatisation and the impression that the success of integration depends solely on their efforts”<sup>42</sup>. The need to avoid stigmatisation of migrants in the debate on integration is thus extremely important.

76. The majority population also has an important role to play in combating racism, intolerance and discrimination and they need to be aware of the culture and traditions of migrants and to be open to contacts with migrants.

77. Mainstream associations, government offices and other levels of society must not only be open to migrants, but they should encourage the participation of migrants and take the initiative of inviting migrants to take part. Migrants must be able to progress and not face unequal treatment otherwise they will not participate and will withdraw.

78. Many steps can be taken to encourage integration as a two way process. Diversity training, for example, is used by some organisations to encourage diversity. Benchmarking tools are being increasingly used by some organisations to measure how inclusive they are. These steps are to be encouraged.

79. Much more can be done at the level of schools to encourage integration as a two way process. Adapting the school curriculum to reflect a multicultural society should be a priority and the curriculum needs to ensure an accurate as well as a positive reflection of the role of migrants in society.

**V. Specific legal and policy measures to assure the democratic participation of migrants**

80. Democratic participation can not take place in a legal or policy vacuum and there are certain legal and policy measures which play a defining role in influencing and facilitating the democratic participation of migrants.

81. In this part of the report, your Rapporteur proposes looking at nationality<sup>43</sup>, electoral rights, long term status, other political rights, consultative bodies, support for civil society and the role of the media in order to define further the measures necessary to improve the democratic participation of migrants.

i. *Nationality*

82. The acquisition of nationality is one of the most effective mechanisms for encouraging integration and enabling participation in the political and democratic process<sup>44</sup>.

83. Granting nationality removes any legal impediment to political participation by migrants. It also plays an important role in encouraging the *de facto* democratic participation of migrants. This has been backed up in a number of research studies<sup>45</sup>, including in the European Social Survey. In this study it was found that

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<sup>42</sup> Third Report on Liechtenstein, Paragraph 42

<sup>43</sup> Nationality in this report does not refer to ethnic affiliation but to the nationals of a state.

<sup>44</sup> This is one of the key foundations of the NATAC (The Acquisition and Loss of Nationality in EU Member States) project, see <http://www.imiscoe.org/natac> which is one of the most comprehensive studies of trends in nationality legislation in 15 EU member states. For an overview of the NATAC project see IMISCOE Policy Brief, 2006, No. 2 The acquisition and Loss of Nationality in 15 EU States. Results of the Comparative Project NATAC.

<sup>45</sup> The conclusion reached by Barbara Herman and Dirk Jacobs was that: «although the relationship is not significant from a statistical point of view, the results seem to suggest there is a positive relation: the higher the score for nationality acquisition, the higher the score for political participation.» See Political Participation Analysis, in the Migrant Integration Policy Index 2006. Germe, Istitut de Sociologie, ULB.

46 % of migrants who acquired citizenship in the host country were civically active. Of those without citizenship only 28 % were found to be civically active<sup>46</sup>.

84. The Council of Europe has through the European Convention on Nationality sought to promote the progressive development of legal principles concerning nationality, avoid discrimination and find appropriate solutions to consequences of multiple nationality<sup>47</sup>. Unfortunately only 16 countries have ratified the Convention and the last ratification was by Ukraine in 2006. Ratifications are, for the most part, from central and eastern European countries, reflecting a tendency on the part of western European countries to move towards tightening rather than loosening the criteria on obtaining nationality.

a. *Naturalisation requirements*

85. Naturalisation requirements differ widely across Europe<sup>48</sup>. A general requirement is residency for a set period of time. Some countries such as Belgium have a short residency period of three years, while others, such as Austria, Spain, Greece, Italy, Lithuania, Portugal and Slovenia have a period of 10 years. Five years is however the standard and this is the case, *inter alia*, for Bulgaria, the Czech Republic, Estonia, France, Latvia, Luxembourg, Malta, the Netherlands, Poland, Romania, Sweden, Slovakia and the United Kingdom. The European Convention on Nationality is disappointing in that it fixes the maximum residency requirement high at 10 years. Your Rapporteur considers that member states of the Council of Europe should be encouraged to fix at five years the maximum residency period.

86. This residency requirement however tends to be shorter for a spouse of a national. Residency is generally not the only requirement. Some of the other requirements include knowledge of the state's official language, adequate income and housing and lack of a criminal record. More recently additional requirements are sometimes called for. These include the obligation to take and pass naturalisation tests (these have been adopted or are under discussion in Austria, Germany, the Netherlands and the United Kingdom), or specialised courses (such as foreseen in Estonia, France, Hungary, Latvia and Lithuania) or oaths of allegiance or declarations of loyalty (as applied in Germany, Estonia, Greece, Ireland, Latvia, Lithuania and Romania)<sup>49</sup>. In some states there are high fees to pay, such as in Greece where a fee of around €1,500 has to be paid and Austria<sup>50</sup>. In a few countries there are no fees such as in France and Luxembourg, while in others the fees are no greater than renewing an identity card (such as in Ireland, Italy, Latvia, Lithuania, Norway, Poland, Spain and the United Kingdom).

87. Restrictive policies on nationality affect a large number of persons across Europe. In Germany, for example, there are about 7 million persons living under the special status of "foreigner", although some of them have lived in the country for decades or were even born there<sup>51</sup>. In Estonia, Latvia and Lithuania, difficulties in obtaining nationality for persons belonging to the Russian minority have created severe tensions in society.

88. One of the barriers to nationality in Germany, Estonia, Latvia and Lithuania, but also in other countries is restrictions on double nationality. Double nationality is restricted in, *inter alia*, Austria, Germany, Denmark, Estonia, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Slovenia and Slovakia<sup>52</sup>.

<sup>46</sup> Maria Aleksynska, "Quantitative Assessment of Immigrants' Civic Activities – Exploring the European Social Survey", Chapter 4, page 73 in Dita Vogel, (ed.), "European Social Survey referred to in Highly Active Immigrants a resource for European civil societies", Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008.

<sup>47</sup> Council of Europe, Preamble, "European Convention on Nationality", ETS 166 - 6.XI.1997.

<sup>48</sup> European Parliament, Directorate General Internal Policies of the Union, Policy Department C - Citizens Rights' and Constitutional Affairs, Briefing Paper, "Trends in the EU-27 regarding participation of third-country nationals in the host country's political life", by Florian Geyer, Centre for European Policy Studies (CEPS), Brussels, PE 378.303, July 2007, see page 9.

<sup>49</sup> European Parliament, Directorate General Internal Policies of the Union, Policy Department C - Citizens Rights' and Constitutional Affairs, Briefing Paper, "Trends in the EU-27 regarding participation of third-country nationals in the host country's political life", by Florian Geyer, Centre for European Policy Studies (CEPS), Brussels, PE 378.303, July 2007, see page 10

<sup>50</sup> See IMISCOE Policy Brief 2006 No. 2 The Acquisition and Loss of Nationality in 15 EU States. Results of the Comparative Project NATAC.

<sup>51</sup> Council of Europe, Parliamentary Assembly, Prof. Dr. Hakki Keskin and others, Motion for a recommendation, "Making multiple nationality an important component of modern integration policy throughout Europe". Doc.11422. 8 October 2007, Strasbourg.

<sup>52</sup> See European Parliament, Directorate General Internal Policies of the Union, Policy Department C - Citizens Rights' and Constitutional Affairs, Briefing Paper, "Trends in the EU-27 regarding participation of third-country nationals in the

89. For many reasons migrants may not wish to lose their original nationality. This may be because of personal identity issues or because of emotional ties. Furthermore in their country of origin if they renounce their nationality they may be classified as foreigners with only limited rights of entry and residence and may require a visa to return. It may also affect their rights of inheritance and property rights. For these persons being compelled to renounce their original nationality presents an important obstacle to the acquisition of a new nationality and acts as a bar to their integration and democratic participation in their host country<sup>53</sup>.

90. The situation of refugees should be specifically mentioned as they no longer enjoy protection of their country of origin and have a more urgent need of nationality than ordinary migrants. This is recognised by Article 34 of the 1951 Refugee Convention as well as under the European Convention on Nationality (Article 6 (4) g). States are therefore under a particular obligation to facilitate their access to nationality.

91. Second and third generation migrants acquire nationality by a combination of the principles of *jus sanguinis* and *jus soli*<sup>54</sup>. It is outside the scope of this report to examine the very different rules applying to member states of the Council of Europe and the comparative advantages and weaknesses of these. Your Rapporteur however wishes to point out that the application of these rules can sometimes lead to second and third generation children not qualifying automatically for nationality. This is the case in countries such as Austria, Denmark, Finland, Greece, Italy, Luxembourg and Sweden where the only way of acquiring nationality at birth is by blood link (*jus sanguinis*), which excludes second generation children and third generation children if their parents have not been naturalised<sup>55</sup>.

#### b. Facilitating nationality

92. Your Rapporteur considers that integration and all steps leading in that direction can lead to the acquisition of nationality. Nationality, when granted, is also a means to improve integration and democratic participation. The European Commission has also underlined that “naturalisation is a strategy, which can help to promote integration and which Member States should consider when granting residence to immigrants and refugees”<sup>56</sup>. Member states of the Council of Europe should be encouraged to ratify the European Convention on Nationality and bring down barriers to nationality. Lengthy residence requirements in excess of 5 years and barriers which prevent second and later generation migrants from obtaining nationality need attention. Double nationality, in the view of your Rapporteur, should be an option in all states. In Europe, after all, we are increasingly taking on multiple identities. We have identities linked to our country of birth, many of us have identities linked to countries in which we live or have lived in. Furthermore we have identities as “citizens” of the European Union and as “Europeans” within the greater scope of the Council of Europe.

93. Granting or facilitating nationality should, however, never be seen as an alternative for other steps for encouraging democratic participation of migrants (granting electoral rights to migrants at local or other levels, establishing consultative bodies, supporting civil society initiatives relating to migrants, etc.).

#### ii. Long term status

94. It is clear that persons who do not have a long term residence status or who are struggling to obtain nationality may be reluctant to put down ties and participate in democratic society. This insecurity may not be limited to those wanting to strengthen their status. There may be many migrants who are highly mobile who do not know what the future may bring. This does not however mean that their democratic participation

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*host country's political life*”, by Florian Geyer, Centre for European Policy Studies (CEPS), Brussels, PE 378.303, July 2007, see page 10, footnote 26.

<sup>53</sup> Council of Europe, Parliamentary Assembly, Prof. Dr. Hakki Keskin and others, Motion for a recommendation, “*Making multiple nationality an important component of modern integration policy throughout Europe*”. Doc.11422. 8 October 2007, Strasbourg.

<sup>54</sup> *jus sanguinis* is the acquisition of citizenship by descent from a citizen parent (blood link) and *jus soli* is the acquisition of citizenship from birth in the territory (territorial link).

<sup>55</sup> For the countries concerned see the Migrant Integration Policy Index, Country profiles - Access to nationality, [http://www.integrationindex.eu/integrationindex/index\\_browse.jsp](http://www.integrationindex.eu/integrationindex/index_browse.jsp) and the Politis' Country reports, “*Active civic participation in 25 EU states*”, Oldenburg University, April 2005, <http://www.uni-oldenburg.de/politis-europe/9812.html>.

<sup>56</sup> Commission of European Communities, “*Communication from the Commission to the Council, the European Parliament, The European Economic and Social Committee and the Committee of Regions on immigration, integration and employment*”, COM (2003) 336 final, 3.6.2003, Brussels.

should be put on hold. All persons should thus have the possibility of democratic participation and be encouraged to participate as much as possible.

95. Your Rapporteur is also concerned about the toughening stance of many countries on family reunion and notes in this respect the increasingly restrictive provisions for example in Austria, Belgium, Denmark and France<sup>57</sup>.

96. Some recommendations in relation to long term status can be made<sup>58</sup>. Long term residents should not be required to wait longer than 5 years for such a status and short periods of leaving the country should not nullify the procedure. All time should count, including times spent as a student or an asylum seeker. The procedure should not be overly bureaucratic and it should be transparent, preferably free and without restrictive and unreasonable linguistic or other requirements such as relating to income, housing or employment. The status should not be withdrawn except in exceptional circumstances. The person granted the status should enjoy the same rights as nationals at least in terms of education and vocational training. Family reunion should be facilitated.

### iii. Electoral rights

97. The more people that are excluded from voting or having the right to be elected, the greater the gap in democratic legitimacy and democratic representation. It is not however only a question of formal rights to vote and be elected that count, it is also whether these rights are enabled and put into practice.

98. Granting electoral rights to migrants allows them to have a voice. It is one of the elements which helps avoid exclusion and the consequences thereof, whether this be violence or criminal behaviour<sup>59</sup> or different forms of extremism.

99. Electoral rights comprise two elements, the right to vote and the right to stand for election. The two are not always granted together. Some states have only granted the right to vote and not the right to be elected thus falling short of the standards set by the Council of Europe's Convention on the participation of foreigners in public life at local level. These countries include Belgium, Estonia and Luxembourg<sup>60</sup>.

#### a. National level

100. At a national level, with very few exceptions, migrants across Europe do not have the right to vote unless they have become a national of the country concerned.

101. Two exceptions are Portugal and the United Kingdom. In the case of Portugal the right applies only to the right to vote and applies to Brazilians in parliamentary elections (the right is granted on the basis of reciprocity and in view of cultural similarities between the nationalities concerned). In the case of the United Kingdom the right to vote and the right to stand for election is granted to all citizens of Commonwealth countries. This is the result of past colonial links<sup>61</sup>.

102. There are no examples of guaranteed seats in Parliament for ethnic groups other than those provided for the protection of persons belonging to national minorities. The idea of rights for "new minorities" is still underdeveloped, but it can not be excluded that one day the idea of guaranteed seats for migrants as "new minorities" will take form.

<sup>57</sup> See in particular the Migrant Integration Policy Index on family reunion for the countries concerned, [http://www.integrationindex.eu/integrationindex/index\\_browse.jsp](http://www.integrationindex.eu/integrationindex/index_browse.jsp)

<sup>58</sup> These recommendations find their inspiration from the best case scenarios outlined in the Migrant Integration Policy Index, Long-term Residence.

<sup>59</sup> Dita Vogel, (ed.), *Highly Active Immigrants, a resource for European civil societies*, Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008, page 19.

<sup>60</sup> European Parliament, Directorate General Internal Policies of the Union, Policy Department C - Citizens Rights' and Constitutional Affairs, Briefing Paper, *Trends in the EU-27 regarding participation of third-country nationals in the host country's political life*, by Florian Geyer, Centre for European Policy Studies (CEPS), Brussels, PE 378.303, July 2007.

<sup>61</sup> For further information see European Parliament, Directorate General Internal Policies of the Union, Policy Department C - Citizens Rights' and Constitutional Affairs, Briefing Paper, *Trends in the EU-27 regarding participation of third-country nationals in the host country's political life*, by Florian Geyer, Centre for European Policy Studies (CEPS), Brussels, PE 378.303, July 2007,

103. As migrants generally do not have electoral rights at national level, it is all the more important that they have other democratic means of representation both at national and other levels.

*b. Local level*

104. It is at the local level that participation of migrants is perhaps the most important. It is at this level that policy and decisions are made affecting the daily lives of migrants, in particular in fields such as education, public housing, health care and welfare.

105. It is thus particularly important that migrants enjoy electoral rights at the local level. Your Rapporteur is pleased to note an increasing trend to give migrants electoral rights at a local level. Such rights were recently granted in the Czech Republic in 2001, Estonia, Lithuania and Slovenia in 2002, Luxembourg and Slovakia in 2003 and Belgium in 2004<sup>62</sup>.

106. There are however localities in which migrants make up extremely high proportions of the population, yet they are not allowed to vote. This was an issue highlighted in the POLITIS project where one interviewer made the point "If in certain localities, forty per cent are immigrants, if you don't have them participate, what's the point?"<sup>63</sup>.

107. The Council of Europe Convention on participation of foreigners in public life at local level requires granting the right to vote to migrants after 5 years residency, although it leaves it open to states to reduce this amount of time. Finland provides for the shortest period of residence, requiring a two year residence period, and countries such as Denmark and Sweden apply a 3 year period. Most other countries however require a five year residence period.

108. Some states apply a number of other requirements such as registration, oaths of allegiance (Belgium), permanent residence permits (Estonia and Lithuania), reciprocity (Czech Republic, Portugal, Spain), or close historical links (for example Colonial links for the United Kingdom and Portugal). In the view of your Rapporteur requirements should be kept to a minimum as the primary goal is to facilitate political participation.

109. In a number of countries there are constitutional impediments<sup>64</sup> to granting voting rights. Granting the right to vote at local level was declared unconstitutional by the Federal Constitutional Court in the northern Länder Hamburg and Schleswig-Holstein<sup>65</sup>. Similarly in Austria attempts to grant voting rights in the City of Vienna were ruled unconstitutional by the Austrian Constitutional Court in 2004<sup>66</sup>. Your Rapporteur considers that the Venice Commission (the European Commission for Democracy through Law) could play a role in identifying and solving constitutional impediments to the granting of voting rights in member states of the Council of Europe and encourages the Venice Commission to further its work in this area<sup>67</sup>.

110. Your Rapporteur considers that member states should grant migrants the right to vote and be elected at least at the local level. Furthermore they should facilitate this by keeping administrative requirements to a minimum and supporting information campaigns and civil society initiatives informing migrants of their rights and encouraging them to participate.

111. Under the Maastricht Treaty, nationals of member states of the European Union enjoy the right to vote and to stand for local elections and European Parliament elections in European Union member states. On the one hand opening up the right to vote of a large number of migrants in Europe is to be welcomed. On the other hand it does, as has been recognised by the Council of Europe Congress of Local and Regional

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<sup>62</sup> European Parliament, Directorate General Internal Policies of the Union, Policy Department C - Citizens Rights' and Constitutional Affairs, Briefing Paper, "*Trends in the EU-27 regarding participation of third-country nationals in the host country's political life*", by Florian Geyer, Centre for European Policy Studies (CEPS), Brussels, PE 378.303, July 2007

<sup>63</sup> Carol Brown, "*Policy Visions and Recommendations of Civically Active Immigrants in the European Union*", Chapter 11, citing POLITIS 048/111, in Dita Vogel, (ed), "*Highly Active Immigrants, a resource for European civil societies*", Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008.

<sup>64</sup> European Parliament, Directorate General Internal Policies of the Union, Policy Department C - Citizens Rights' and Constitutional Affairs, Briefing Paper, "*Trends in the EU-27 regarding participation of third-country nationals in the host country's political life*", by Florian Geyer, Centre for European Policy Studies (CEPS), Brussels, PE 378.303, July 2007

<sup>65</sup> Bundesverfassungsgericht, Judgment 3.10.1990. 2 BvF 2/89, 3/89, 6/89.

<sup>66</sup> Verfassungsgerichtshof, Judgment of 30.6.2004, G-218/03.

<sup>67</sup> The Venice Commission did organise in a round table in Moscow in 2005 on "the participation of foreigners in elections" at which a number of country perspectives were examined.  
[http://venice.coe.int/site/dynamics/N\\_Seminar\\_ef.asp?L=F&SID=106](http://venice.coe.int/site/dynamics/N_Seminar_ef.asp?L=F&SID=106)

Authorities create “a form of discrimination between residents of foreign origin, contrary to the principles upheld by the Council of Europe and set forth in the European Convention on Human Rights”<sup>68</sup>. Your Rapporteur is also aware of calls to grant similar reciprocal voting rights at local level for all nationals of member states of the Council of Europe<sup>69</sup>. There may be a cause for considering whether such voting rights should not be limited to European Union nationals or even Council of Europe nationals, but that they should apply to all migrants without distinction as to their nationality. The Assembly may wish to take a lead in considering how such a long term goal could be facilitated.

112. It is not only the granting of the right to vote and stand in elections that is important. It is also the application of this right. More research is needed on the levels of voting of migrants and the patterns of voting of migrants. Some interesting research has nonetheless been carried out. It has been shown, for example, that migrants will tend to vote for other migrants, but only after the political lines have been drawn<sup>70</sup>. Understanding these voting patterns is important for meeting the needs and expectations of migrants and as a means of encouraging political parties to field more candidates from different ethnic backgrounds. This is a matter which is increasingly understood by political parties who want to attract the migrant vote. In Brussels, for example, political parties are recruiting large numbers of candidates of non-Belgian ethnic origin in order to attract “ethnic voters”<sup>71</sup>.

#### iv. *Political rights*

113. In accordance with the European Convention on Human Rights, freedom of thought, conscience and religion (Article 9), freedom of expression (Article 10) and freedom of assembly and association (Article 11) are granted to migrants across Europe<sup>72</sup>. Certain restrictions can nonetheless be placed on the “political activities of aliens” in accordance with Article 16 of the Convention<sup>73</sup>.

114. There is a tendency in some of the countries of central and eastern Europe to place greater restrictions on the political rights and activities of migrants than is the norm in western Europe. Restrictions are sometimes placed on joining political parties or forming political associations. In Estonia<sup>74</sup> non nationals are banned from joining political parties or forming any political associations. The same applies in Latvia<sup>75</sup> and Lithuania<sup>76</sup>. Slovakia<sup>77</sup> does not grant migrants the right to join political parties or movements and Slovenia<sup>78</sup> only allows migrants to participate in political parties as honorary members and they may not form their own political associations.

115. In many of the countries in central and eastern Europe, there remains greater scope for widening the political liberties granted to migrants. The widespread granting of these political rights to migrants across most of the European Union and a large proportion of member states of the Council of Europe, should act as an incentive for countries that maintain restrictions. The Venice Commission for Democracy through law could play a role in encouraging states to withdraw such political restrictions where they currently apply.

#### v. *Right to consultation*

116. National and local authorities are increasingly recognising that one of the most effective means of integrating migrants and facilitating their democratic participation is to ensure that they are consulted both generally and more particularly on issues of direct relevance to them.

<sup>68</sup> Council of Europe, The Congress of Local and Regional Authority, “*Recommendation 115 (2002) on the participation of foreign residents in local public life: consultative bodies*”, paragraph 13.

<sup>69</sup> Parliamentary Assembly Resolution 1547 (2007) on the State of Democracy in Europe.

<sup>70</sup> European Parliament, Directorate General Internal Policies of the Union, Policy Department C - Citizens Rights' and Constitutional Affairs, Briefing Paper, “*Trends in the EU-27 regarding participation of third-country nationals in the host country's political life*”, by Florian Geyer, Centre for European Policy Studies (CEPS), Brussels, PE 378.303, July 2007

<sup>71</sup> European Parliament, Directorate General Internal Policies of the Union, Policy Department C - Citizens Rights' and Constitutional Affairs, Briefing Paper, “*Trends in the EU-27 regarding participation of third-country nationals in the host country's political life*”, by Florian Geyer, Centre for European Policy Studies (CEPS), Brussels, PE 378.303, July 2007

<sup>72</sup> In the Migrant Integration Policy Index (MIPEX) analysis, 22 out of the 28 countries examined scored the maximum in terms of political liberties

<sup>73</sup> “Nothing in Articles 10,11, and 14 shall be regarded as preventing the High Contracting Parties from imposing restrictions on the political activities of aliens.”

<sup>74</sup> See MIPEX, Political participation, County profile of Estonia.

<sup>75</sup> See MIPEX, Political participation, County profile of Latvia.

<sup>76</sup> See MIPEX, Political participation, County profile of Lithuania.

<sup>77</sup> See MIPEX, Political participation, County profile of Slovakia.

<sup>78</sup> See MIPEX, Political participation, County profile of Slovenia.

117. In order to facilitate consultation, consultative bodies have been set up in many countries, mostly at local levels but also at national levels. Over the last 30 years such bodies have been set up in more than ten countries, including Belgium, Germany, Luxembourg, France, Finland, the Netherlands, Italy, Spain, the United Kingdom, Sweden, Denmark, Norway and Switzerland<sup>79</sup>. Few exist in central and eastern Europe, although *ad hoc* consultations do take place with migrants' associations in certain countries.

118. These consultative bodies can be defined as democratic bodies set up at national or local level to provide a forum for consultation between elected representatives and migrants (primarily foreign residents).

119. One of the three pillars of the Convention on the Participation of Foreigners in Public Life at Local Level is the establishment of consultative bodies to represent foreign residents at local level (Article 5). Under this Convention there must be no legal or other obstacles preventing the establishment of such bodies, states must encourage and facilitate their establishment in areas where there are significant numbers of foreign residents and states must ensure that participants on the bodies can be elected by the foreign residents or individual associations of foreign residents. As has been noted earlier only 8 countries have ratified this Convention<sup>80</sup>.

120. The objectives of the consultative bodies can be different, but there are normally two main objectives. The first is to integrate and encourage the participation of foreign residents in local public life and the second is to improve or harmonise relations between foreign residents and other sectors of the community (authorities, administrative bodies, nationals)<sup>81</sup>. They may also have very specific objectives relevant to the locality in which they are established, such as to fight discrimination, promote different cultures, etc. Most consultative bodies have between fifteen and twenty persons, but this does vary.

121. A certain amount of good practice can be identified from the different councils across Europe. The Migrant Integration Policy Index<sup>82</sup> maps the countries with the best practice in relation to consultative bodies. These include:

**Denmark:** Migrant representatives are usually freely elected to local, regional and national consultative bodies, although they are only consulted on an *ad hoc* basis. At a local level around sixty Integrationsraad (integration councils) exist.

**Finland:** On the Advisory Board for Ethnic Relations (ETNO) immigrant members have equal voting and decision rights as Finnish officials<sup>83</sup>.

**Germany:** There are 400 Ausländerbeiräte (foreigners' councils) at the local level. In North-Rhine Westphalia foreigners' councils are obligatory for communities with more than 5,000 foreign inhabitants.

122. Notwithstanding this good practice, there are many countries that have no consultative bodies at all, including Cyprus, Latvia, Lithuania, Malta, Greece, Hungary, Poland, Slovenia and Slovakia<sup>84</sup>. While some other countries do have such bodies, they are not effective for a number of reasons. Where there is criticism of these bodies it is usually aimed at the lack of representivity, the divergent views within the Councils, concerns that they are a form of window-dressing, too often focussed on immigration rather than general societal issues, and that they can be expensive and time consuming<sup>85</sup>.

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<sup>79</sup> Council of Europe, Congress of Local and Regional Authorities, Sonia Gisir and Marco Martiniello, "*Local consultative bodies for foreign residents – a handbook*", July 2004, page 7. See also MIPEX, Political participation, [http://www.integrationindex.eu/integrationindex/index\\_browse.jsp](http://www.integrationindex.eu/integrationindex/index_browse.jsp)

<sup>80</sup> The countries that have ratified this Convention are Albania, Denmark, Finland, Iceland, Italy, Netherlands, Norway and Sweden.

<sup>81</sup> Council of Europe, Congress of Local and Regional Authorities, Sonia Gisir and Marco Martiniello, "*Local consultative bodies for foreign residents – a handbook*", July 2004, page 17.

<sup>82</sup> MIPEX, Political participation.

<sup>83</sup> Silvain Sagne, Sanna Saksela and Niklas Wilhelmsson, "*Active Civic Participation of Immigrants in Finland*", European research Project Politis, Oldenburg University, 2005.

<sup>84</sup> MIPEX, Political participation.

<sup>85</sup> Carol Brown, "*Policy Visions and Recommendations of Civically Active Immigrants in the European Union*", Chapter 11, pages 180 and 181 in Dita Vogel, (ed.), *Highly Active Immigrants, a resource for European civil societies*, Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008.

123. From experience and good practice so far, a number of recommendations can be made in relation to the operation and functioning of consultative bodies<sup>86</sup>:

124. In terms of composition, consultative bodies should:

- be as open ended as possible even if it means differentiating membership and granting members different rights. This means that groups that might otherwise be excluded, can still participate in one form or another. This is particularly important for groups such as newly arrived migrants, naturalised migrants or irregular migrants.
- allow for equal representation between the representatives of the local authorities and the migrants to ensure an effective bridge between the communities
- ensure representivity amongst migrant members (taking into account geographical location, nationality of migrants and sex of migrants).

125. In terms of selection, preference should be given to direct elections from the communities concerned (as happens in Germany), or allow migrant associations to put forward candidates themselves (which for instance happens in Grenoble and several towns in Denmark and Luxembourg) or at least allow the same associations to propose membership (such as in Osnabrück). Representatives should not simply be picked by the authorities without consultation with the migrants.

126. In terms of objectives, these should be clearly defined, prioritised and realisable with the resources available and they should be regularly assessed.

127. In terms of activities, priority should be given to political activities including consultation and promotion of citizen participation. Cultural and social activities may also be promoted, but they should be pursued by other relevant bodies and associations.

128. In terms of functioning, consultative bodies should have the right to be informed and consulted. They should have the right to initiate consultation and the right to have a response. They should have the necessary financial and human resources to function properly.

129. The Council of Europe through the Convention on the Participation of Foreigners in Public Life at Local Level and the work leading up to the Handbook by the Congress of Local and Regional Authorities of the Council of Europe on Local consultative bodies has made a valid contribution to this form of political participation. The Congress and the European Committee on Local and Regional Democracy (CDLR), the relevant intergovernmental committee in the Council of Europe should be encouraged to continue their work in this area, in particular by bringing together local consultative bodies and encouraging them to network both at national and international level.

*vi. Support for civil society and in particular organisations dealing with and representing migrants*

130. Social bridges (between communities) and social bonds (within communities), as has been discussed earlier in this report are essential for integration and also for democratic participation of migrants. It is thus important to provide support for civil society and associations dealing with and representing migrants.

131. There is some debate as to whether it is better to encourage on the one hand organisations specialised in migrant's issues or representing migrants, or on the other hand providing support for mainstream organisations that can include the concerns of migrants in their agendas. There is no right or wrong answer to this and both types of organisations have a role to play and migrants need to have choices. Research indicates that when migrants participate in one type of organisation, they are then more likely to cross-over and be interested in the other type of organisation as well. This cross-over should allay concerns sometimes raised that supporting migrants' associations leads to "parallel societies" and a failure to integrate and in extreme circumstances leads to fundamentalism and terrorism<sup>87</sup>.

<sup>86</sup> These recommendations are based on the recommendations contained in "Local consultative bodies for foreign residents – a handbook", Council of Europe. See also Congress of Local and Regional Authorities of Europe, "Recommendation 115 (2002) on the participation of foreign residents in local public life: consultative bodies and Resolution 141 (2002) on the participation of foreign residents in local public life: consultative bodies".

<sup>87</sup> Halm, D. and Sauer, M. "Freiwilliges Engagement von Türkinnen und Türken in Deutschland", Zeitschrift für Ausländerrecht und Ausländerpolitik, 11 (12): 418.2004.

132. Migrant organisations clearly play an important role in welcoming new migrants and allowing them to build up links, enjoy cultural, sporting and other social activities. Many migrants need these organisations as a stepping stone into society.

133. Migrants get involved in civic society for a range of different reasons. Some because of particular interest, some have a calling or wish to fight an injustice, provide support for their children, support their fellow nationals, or any one of a number of other causes. One important element is that people often get involved because they are asked to get involved<sup>88</sup>. This is therefore an important factor to take into account when looking at ways to foster further democratic participation at this level.

134. It can be welcomed that the European Union has established the European Integration Fund (covering the period 2007 -2013). This fund of 1,771 million Euros has the objective of increasing the civic, cultural and political participation of third-country nationals in their host society. Your Rapporteur hopes that this fund will look favourably at projects from a wider European perspective and concentrate not just on established networks but newer organisations and those not so skilled at tapping into European Union resources.

#### *vii. Media*

135. Your Rapporteur notes the conclusions of the Assembly in Recommendation 1768 (2006) on the image of asylum-seekers, migrants and refugees in the media and wishes to highlight three areas of particular concern.

136. Firstly, there is a particular need for the media to portray a fair image of migrants, and not stereotype them in one way or another. This is particular so for women migrants who may face double stereotyping. The second is that it is necessary to ensure that migrants are themselves represented in the media as media professionals, and that they are included in programmes where they can be seen and heard. The third is that adequate opportunities need to exist for migrants to form their own media (newspapers, radio, television, etc.)<sup>89</sup>.

137. The greater the visibility of migrants, the more their views are aired and positive role models emerge, the higher is the likelihood that they will have the interest, confidence and motivation to participate in democratic life.

### **VI. Irregular migrants**

138. The Assembly has taken a robust stand on the issue of rights of irregular migrants, notably in its Resolution 1509 (2006) on Human rights of irregular migrants<sup>90</sup> and in its Resolution 1568 (2007) on Regularisation programmes for irregular migrants<sup>91</sup>.

139. There are thought to be approximately 5.5 million irregular migrants living in the European Union with a further 8 million living in the Russian Federation. It is not possible for Europe to close the door on the democratic participation of such a large number of persons many of whom make an important contribution to our economies (working in the building trade, agriculture, hotels and catering) and our homes (working as home helps, looking after the children, the aged, etc.).

140. These persons should also have a voice and an entitlement to participate in our democratic societies if they are not to be sent back to their countries of origin.

141. As the Assembly has made clear in its Resolution 1568 (2007) on Regularisation programmes for irregular migrants, if states are not going to return irregular migrants to their countries of origin, they should consider steps to regularise their situation. This is the surest and fairest means of guaranteeing their rights and also allowing them to participate in democratic society.

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<sup>88</sup> Dita Vogel, (ed.), *“Highly Active Immigrants, a resource for European civil societies”*, Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008, page 21.

<sup>89</sup> European Commission, Immigration and Asylum Committee, *“Issue Paper for the technical seminar ‘Mass Media and Integration, Vienna 6<sup>th</sup> and 7<sup>th</sup> November 2007”*, Migrapol-integration 91-Rev.

<sup>90</sup> See also Council of Europe, Parliamentary Assembly, Report of the Committee on Migration, Refugees and Population, Doc. 10924, Rapporteur, Mr Ed van Thijn, Netherlands, SOC.4 May 2006.

<sup>91</sup> See also Council of Europe, Parliamentary Assembly, Report of the Committee on Migration, Refugees and Population, Doc. 11350, Rapporteur, Mr John Greenway, United Kingdom, EDG, 6 July 2007.

142. Where regularisation is not an option, irregular migrants should still be included in democratic processes. They should not be excluded from civil society initiatives and they should be able to participate in these initiatives and receive support. They should be entitled to participate and be represented in trade unions and in consultative bodies to ensure that their voices are heard.

143. There are also certain integration measures which are appropriate for those in an irregular situation and in particular those who cannot be returned to their countries of origin. Education should for example be open to children of irregular migrants, social bridges, bonds and links need to be kept open, safety and stability needs to be guaranteed and security in areas such as employment, health and even housing have to be assured to a certain minimum level.

## VII. Migrant women

144. Migrant women may face a different set of challenges in terms of democratic participation. There are quantitative studies that show that women are less active than men<sup>92</sup>, but this is not always the case. In circumstances when they do participate less there may be a range of different reasons for this. Their experience in migration differs from men. Their level of participation in their home country may well have been lower, their time, money and skills in the host country may not be the same as men and their consequent levels of integration may well be lower<sup>93</sup>. By contrast their lack of possibility for democratic participation in their home country may be a motivating factor for participating in their host country.

145. Differentiated approaches are therefore needed for the participation of migrant women by comparison to men and more research is needed on the particular needs of women in this respect. The Committee of Ministers of the Council of Europe has made recommendations on the balanced participation of women and men in political and public decision making<sup>94</sup> which are of particular relevance also for migrant women.

146. Women with migrant backgrounds need to be fairly represented in decision-making bodies and steps should be taken to make it easier for women to combine participation in democratic activities and family and working life.

147. A problem, which also affects the security of migrant women and thus their democratic participation, is the issue of access to an individual residence permit. Often a wife has a residence permit linked to her husband. In order to give security and protection to all spouses in the event of death, divorce or domestic violence, states should consider granting to both spouses individual residence permits.

## VIII. Conclusions

148. As the guardian of human rights and values the Council of Europe has a vital role to play in promoting and protecting the rights of migrants.

149. The Assembly has over a long period paid particular attention to the interests of migrant communities with a strong emphasis on providing migrants the opportunity to participate in society in all its forms as a vital first step towards integration. The democratic participation of migrants is an essential element in this process.

150. In order to participate and integrate migrants must be accepted by host communities. They must be offered equality of opportunity and have their status and rights clarified and recognised. So previous Assembly recommendations on the rights of migrants, including irregular migrants, the value of regularisation programmes and the fight against xenophobia, intolerance, human trafficking and incitement to racial hatred and the image of migrants in the media are all relevant to achieving greater democratic participation and integration.

151. The Council of Europe is uniquely placed to help bring about improved democratic participation of migrants across the entire continent of Europe. For this to happen the Committee of Ministers must mobilise

<sup>92</sup> Maria Aleksynska, *Quantitative Assessment of Immigrants' Civic Activities – Exploring the European Social Survey*, Chapter 4, pages 71 and 72 in Dita Vogel, (ed.), *Highly Active Immigrants, a resource for European civil societies*, Frankfurt am Main, Berlin, Bern, Bruxelles, New York, Oxford, Wien, 2008.

<sup>93</sup> Council of Europe, Parliamentary Assembly, "Recommendation 1732 (2006) and Resolution 1478 (2006) on Integration of immigrant women in Europe".

<sup>94</sup> See Recommendation (2003) 3 on balanced participation of women and men in political and public decision making.

the Council of Europe's specialist committees and expertise to give greater priority to improved democratic participation. Member states should sign and ratify a number of existing Council of Europe conventions on, for example, Nationality, the Participation of Foreigners in Public Life at Local Level, the Legal Status of Migrant Workers and uphold the recommendations of the European Commission against Racism and Intolerance (ECRI).

152. In summary, the machinery exists within the Council of Europe to make the democratic participation of migrants a reality. What is needed is the political will to make this happen.

*Reporting committee:* Committee on Migration, Refugees and Population

*Reference to committee:* Reference No. 3414 of 21 January 2008

*Draft resolution and draft recommendation unanimously adopted by the committee on 19 May 2008*

*Members of the committee:* Mrs Corien W.A. **Jonker** (Chairperson), Mr Doug **Henderson** (1<sup>st</sup> Vice-Chairperson), Mr Pedro Agramunt (2<sup>nd</sup> Vice-Chairperson), Mr Alessandro **Rossi** (3<sup>rd</sup> Vice-Chairperson), Mrs Tina Acketoft, Mr Ioannis Baniias, Ms Donka Banović, Mr Italo Bocchino, Mr Jean-Guy **Branger**, Mr Márton Braun, Mr André **Bugnon**, Lord Burlison (alternate: Mrs Claire **Curtis-Thomas**), Mr Mevlüt Çavuşoğlu, Mr Sergej Chelemendik, Mr Christopher Chope (alternate: Mr Bill **Etherington**), Mr Boriss **Cilevičs**, Mrs Minodora **Cliveti**, Mr Telmo Correia, Mr Ivica Dačić, Mr Joseph Debono Grech, Mr Taulant Dedja, Mr Nikolaos **Dendias**, Mr Mitko **Dimitrov**, Mr Karl Donabauer, Mr Tuur Elzinga, Mr Valeriy **Fedorov**, Mr Oleksandr Feldman, Mme Doris Fiala, Mr Paul Giacobbi (alternate: Mr Denis **Jacquat**), Mrs Gunn Karin Gjul, Mrs Angelika Graf, Mr John **Greenway**, Mr Tony **Gregory**, Mr Andrzej Grzyb (alternate: Mr Tomasz **Dudziński**), Mr Michael Hagberg, Mrs Gultakin **Hajiyeva**, Mr Davit Harutyunyan, Mr Jürgen Herrmann, Mr Bernd Heynemann, Mr Jean Huss, Mr Ilie **Ilaşcu**, Mr Tadeusz **Iwiński**, Mr Mustafa Jemiliev, Mr Tomáš Jirsa, Mr Reijo Kallio, Mr Hakki Keskin, Mr Egidijus Klumbys, Mr Ruslan Kondratov (alternate: Mr Ivan **Savvidi**), Mr Dimitrij Kovačić, Mr Andros Kyprianou, Mr Geert Lambert, Mr Massimo Livi Bacci, Mr Younal Loutfi (alternate: Mrs Aneliya **Atanasova**), Mr Andrija Mandić, Mr Jean-Pierre Masseret, Mr Slavko Matić, Mr Giorgio **Mele**, Mrs Ana Catarina **Mendonça**, Mr Gebhard Negele, Mr Hryhoriy Omelchenko, Mr Morten **Østergaard**, Mr Alexey Ostrovsky, Mr Grigore Petrenco, Mr Cezar Florin Preda, Mr Gabino **Puche**, Mr Milorad Pupovac, Mrs Mailis **Reps**, Mrs Michaela Sburny, Mr André **Schneider**, Mr Samad Seyidov, Mr Steingrímur J. Sigfússon, Mrs Miet Smet (alternate: Mr Daniel **Ducarme**), Mr Giacomo **Stucchi**, Mr Vilmos Szabó, Mrs Elene Tevdoradze, Mr Tuğrul **Türkeş**, Mrs Özlem **Türköne**, Mrs Rosario Velasco García, Mr Michał **Wojtczak**, Mr Andrej Zernovski, Mr Yury Zelenskiy, Mr Jiří Zlatuška, ZZ..., ZZ....

N.B.: The names of the members who took part in the meeting are printed in **bold**.

*Secretariat of the committee:* Mr Lervik, Mr Neville, Ms Karanjac, Ms Odrats.