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## LOCALMULTIDEM

Multicultural Democracy and Immigrants' Social Capital in Europe:  
Participation, Organisational Networks, and Public Policies at the Local Level

SPECIFIC TARGETED RESEARCH PROJECT (STREP)

PRIORITY 7: Citizens and Governance in a Knowledge Based Society

### **Deliverable #5 City reports on the Institutional Political Opportunity Structure**

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## **PRESENTATION OF THE DATA**

This deliverable contains all the Workpackage 1 country reports (France, Hungary, Italy, Spain, Switzerland and the United Kingdom).<sup>1</sup> The general aim of this workpackage is to capture the institutional political opportunity structure that can impact on immigrants' political integration at the local level. A special attention is given to the policies and institutions that are specifically related to local governments.

About 100 indicators have been defined in order to grasp a wide range of various aspects of the institutional political opportunity structure that can have an effect on immigrants' political integration. Although the list of indicators and the scoring instructions composed Deliverable 1, we have added it to this report for easy reference access when reading the city reports.

Different dimensions are considered. The first refers to immigrants' individual rights, in particular rights related to the access to the community (permits to stay, rules for the acquisition of the host nationality, etc.), socio-economic rights, anti-discrimination and local political rights. For this dimension, the *Civic Index* of the Migration Policy Group has been used as a source of useful and comparable indicators.

The second dimension concerns group-related rights: cultural requirements to access the community, as well as collective resources and rights immigrants have in the host country at the local level. The various fields of education, religious practices and representation in the media, are taken into account. For this dimension, previous work and indicators by Koopmans et al. (2005) have been used as sources for the elaboration of our indicators.

Thirdly, the specific institutional local political opportunity structure is considered, both general (configuration of powers at the national and local levels and local participation mechanisms) and specific to immigrants (policies towards immigrants and immigrants' organizations).

For comparative purposes, a 3-level scoring has been used for each indicator, in addition to the narrative presentation of the indicator. The score “-1” refers to the most restrictive situation that can be envisaged, the score “1” corresponds to the most open configuration and the score “0” applies to intermediary potential situations.

The present document merges all the country reports that are mainly descriptive data reports. The analysis and the comparative study will be carried out in another document: the integrated report (Deliverable 7).

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<sup>1</sup> The coordination of the institutional indicators of WP1 is the responsibility of the French team (FNSP-CEVIPOF). This report has been coordinated and edited at various stages by Géraldine Bozec, a member of the French LOCALMULTIDEM team, under the supervision and guidance of Dr. Manlio Cinalli, the scientific director of the French team.

# **STRUCTURE OF THE REPORT, LIST OF INDICATORS AND SCORING (Deliverable #1)**

## **INTRODUCTION**

Write a brief introduction (1-2 pages) with a presentation of the general immigration situation:

- **the current situation of immigration** in the country/city: the nature of immigration (work immigration, family immigration, etc.), its newness or oldness (newly arrived immigrants/second and third generation), its importance.
- **main current issues related to immigration in the public debate** in the country/city over the last years
- main lines of the **recent laws/public programs** on immigration
- + **all other relevant information to understand the indicators.**

**NOTE ON SCORING:** each time a split according to the three ethnic groups is requested, a **general score** representing the situation of the “typical” immigrant (in the statistical sense) in the country/city must also be added.

## **I – INDIVIDUAL RIGHTS**

### **1. ACCESS TO THE COMMUNITY**

Presentation of the **main types of permits** in the country.

#### **a) Short-term permits**

Nº	Indicator	Scale		
		-1	0	1
1	Automatic acquisition of the permit if mother or father of a national minor child Split: For each of the three groups	No such a provision exists or further conditions apply	Only if she/he contributes financially to the child's raising and if the child is unmarried <i>and/or</i> with economic requirements	More open conditions
2	Automatic acquisition of the permit if marriage with a national Split: For each of the three groups	No such a provision exists or further conditions apply (length of marriage > 1 year)	If length of marriage is at least = 1 year <i>and/or</i> with economic requirements	More open conditions (no condition of length of marriage, no economic requirements...)
3	Economic resources requirement Split: For each of the three groups	Additional requirements (for example accommodation requirements as well)	At least the level of the minimal social income (provided by the welfare state to support the poorest people)	More open conditions
4	Link between work regime and permit regime	Obligation to first have a work contract	Obligation only for some economic	Possibility to stay in the territory without

Nº	Indicator	Scale		
		-1	0	1
	Split: For each of the three groups	to stay on the territory	sectors	work contract, to search for a job
5	Grounds for withdrawal: a. proven fraud in the acquisition of permit b. sentence for serious crimes c. actual and serious threat to public policy or national security d. sufficient level of resources Split: For each of the three groups	Grounds include d or other than a-b-c	Grounds include c but not d	No other than a-b

**b) Long-term residence permits (duration of validity:  $\geq 5$  years)**

Nº	Indicator	Scale		
		-1	0	1
6	Acquisition of the permit if mother or father of a national minor child Split: For each of the three groups	No such a provision exists or further conditions apply	If length of residence is $>2 <5$ years (with or without economic requirements)	More open conditions (required time of residence shorter, etc.)
7	Acquisition of the permit if marriage with a national Split: For each of the three groups	Further conditions <i>Code -1 the situation where the two conditions (length of marriage and residence) are cumulative and one of them <math>\geq 5</math> years</i>	If length of marriage $>2 <5$ years and/or if length of residence $>2 <5$ years (with or without economic requirements) <i>Code +1 the situation where the two conditions (length of marriage and residence) are not cumulative (but alternative) and one of them <math>\leq 2</math> years</i>	More open conditions of length of marriage and/or of length of residence (with or without economic requirements) <i>Code +1 the situation where the two conditions (length of marriage and residence) are not cumulative (but alternative) and one of them <math>\leq 2</math> years</i>
8	Required minimum time of habitual residence Split: For each of the three groups	$> 6$ years	$> 4 \leq 6$ years	$\leq 4$ years
9	Economic resources requirement Split: For each of the three groups	Additional requirements (for example accommodation requirements as well)	At least the level of the minimal social income (provided by the welfare state to support the poorest people)	More open conditions
10	Percentage of given permits over the total number of applications – National Level	$< 50 \%$	$\geq 50 < 80 \%$	$\geq 80 \%$

Nº	Indicator	Scale		
		-1	0	1
	Split: For each of the three groups			
11	Grounds for withdrawal: a. proven fraud in the acquisition of permit b. sentence for serious crimes c. actual and serious threat to public policy or national security d. sufficient level of resources Split: For each of the three groups	Grounds include d or other than a-b-c	Grounds include c but not d	No other than a-b
12	Expulsion precluded a. after 20 years of residence as a long-term residence permit holder b. in case of minors c. residents born in the host country or admitted before they were 10, once they have reached the age of 18 Split: For each of the three groups	None	- At least a or b - or in all three cases, except in case of heavy sentences (prison sentences $\geq 5$ years or serious threat to national security such as espionage, terrorism etc.)	In all three cases

**c) Access to nationality**

Nº	Indicator	Scale		
		-1	0	1
13	Eligibility for second and third generation immigrants ( <i>jus soli</i> ) Split: For each of the three groups	Further requirements (continuous residence since birth, etc.)	On application at a certain age (16/18 years, or before if parents can ask for their child) <i>and</i> with a condition of length of residence: $\leq 5$ years	Automatically at birth
14	Marriage with a national Split: For each of the three groups	Further conditions <i>Code -1 the situation where the two conditions (length of marriage and residence) are cumulative and one of them <math>&gt; 5</math> years</i>	If length of marriage $> 3 \leq 5$ years and/or if length of residence $> 3 \leq 5$ (with or without economic requirements) <i>Code +1 the situation where the two conditions (length of marriage and</i>	More open conditions of length of marriage and/or of length of residence (with or without economic requirements) <i>Code +1 the situation where the two conditions (length of marriage and</i>

				<i>residence) are not cumulative (but alternative) and one of them <math>\leq 3</math> years</i>
15	Required minimum time of habitual residence Split: For each of the three groups	$> 8$ years	$> 5 \leq 8$ years	$\leq 5$ years
16	Economic resources requirement for naturalization (first generation immigrants) Split: For each of the three groups	Additional requirements (for example accommodation requirements as well)	At least the level of the minimal social income (provided by the welfare state to support the poorest people)	More open conditions
17	Percentage of approved naturalizations over the total number of applications – National level Split: For each of the three groups	$< 50$ %	$\geq 50 < 80$ %	$\geq 80$ %
18	Grounds for withdrawing status: a. proven fraud in the acquisition of citizenship b. actual and serious threat to public policy or national security Split: For each of the three groups	Other than a-b	No other than a-b	No other than a

## 2. FAMILY REUNION

Nº	Indicator	Scale		
		-1	0	1
19	Eligibility for legal residents Split: For each of the three groups	$\geq 2$ years of legal residence <i>and/or</i> holding a permit for $\geq 2$ years	$> 1$ year of legal residence <i>and/or</i> holding a permit for $> 1$ year	$\leq 1$ year of legal residence <i>and/or</i> holding a residence permit for $\leq 1$ year
20	Economic resources requirement Split: For each of the three groups	Additional requirements (for example accommodation requirements as well)	At least the level of the minimal social income (provided by the welfare state to support the poorest people)	More open conditions
21	Duration of validity of permit Split: For each of the three groups	$\leq 1$ year renewable permit <i>or</i> new application necessary	- Depends on sponsor's permit (but not equal to it ) <i>or</i> - $> 1$ year renewable permit but not equal to sponsor's	Equal to sponsor's residence permit and renewable
22	Grounds for withdrawing:	Other grounds	Grounds include c	No other than a-b

	<p>a. Public policy or security major threat</p> <p>b. Proven fraud in the acquisition of permit (inexistent relationship or misleading information).</p> <p>c. Break-up of family relationship (before three years)</p> <p><i>Do not forget to also consider economic requirements or other requirements (because the score is then -1)</i></p> <p>Split: For each of the three groups</p>			
23	<p>Right to autonomous residence permit for partners and children reaching age of majority</p> <p>Split: For each of the three groups</p> <p>Split (if needed): one score for partner; one score for children</p>	After > 5 years <i>or</i> upon certain conditions	After > 3 ≤ 5 years	After ≤ 3 years
24	<p>Percentage of entrances in the territory through family reunion over the total number of applications – National level</p> <p>Split: For each of the three groups</p>	< 50 %	≥ 50 < 80 %	≥ 80 %

### 3. SOCIAL AND ECONOMIC RIGHTS

#### a) Labour market access

##### - *Short-term permits*

Nº	Indicator	Scale		
		-1	0	1
25	Access to employment Split: For each of the three groups  Only consider <i>workers</i> here (not immigrant with another status: family, student, etc.)	Legal limitations in both public and private sector	Legal limitations in the public sector only (also for activities not involving an actual participation to the exercise of public authority)	Equal access with nationals, excluding the activities involving an actual participation to the exercise of public authority (such as the army, the police, the magistracy, the diplomatic corps...)
26	Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit of stay Split: For each of the three groups  Only consider <i>workers</i> here (not immigrant with another status: family, student, etc.)	In all cases except if the foreigner has a new job/a new job offer	Not if the foreigner has lost his/her job: a new permit is then granted for ≤ 6 months	Not if the foreigner has lost his/her job: more open conditions (new permit granted for more than 6 months ; possible new extension afterwards on some conditions, etc.)

##### - *Long-term residence (duration of validity: ≥ 5 years)*

Nº	Indicator	Scale		
		-1	0	1
27	Access to employment Split: For each of the three groups  Only consider <i>workers</i> here (not immigrant with another status: family, student, etc.)	Legal limitations in both public and private sector	Legal limitations in the public sector only (also for activities not involving an actual participation to the exercise of public authority)	Equal access with nationals, excluding the activities involving an actual participation to the exercise of public authority (such as the army, the police, the magistracy, the diplomatic corps...)
28	Unemployment is a	Yes (or except if the	Only if it results in	Not at all

	reason for revoking or refusing to renew his/her permit of stay Split: For each of the three groups. Only consider <i>workers</i> here (not immigrant with another status: family, student, etc.)	foreigner still has sufficient resources to live)	the foreigner's welfare dependence (ie for his/her minimum income to live) <i>for a long period</i> ( $\geq 1$ year)	
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### **b) Welfare state access**

#### *- Illegal immigrants*

Nº	Indicator	Scale		
		-1	0	1
29	Access to social security, social assistance and healthcare for illegal immigrants Split: For each of the three groups	No access	- Only health assistance - or health assistance and other types of assistance but all related to dangerous and emergency situations - or legal access but low/no implementation	Health assistance <i>and</i> other social rights (for example: some minimal child benefits, urgent housing...)

#### *- Short-term permits*

Nº	Indicator	Scale		
		-1	0	1
30	Access to social security, social assistance and healthcare for non-nationals a. minimum income support b. minimum housing support c. family and child benefits d. assistance in case of illness e. pregnancy and maternity care f. long-term care Split: For each of the three groups	Less than core benefits <i>or</i> no access	- Limitation to core benefits: a, d, e and f - or access to all benefits but with conditions of time of residence/of legal employment for one or some of them - or legal access but limited/no implementation - or legal access but possible negative consequences for immigrants (for example: risk of expulsion or permit withdrawal if welfare dependent)	Equal access with nationals for all these benefits

**- Long-term residence permits**

Nº	Indicator	Scale		
		-1	0	1
31	Access to social security, social assistance and healthcare for non-nationals a. minimum income support b. minimum housing support c. family and child benefits d. assistance in case of illness e. pregnancy and maternity care f. long-term care Split: For each of the three groups	Less than core benefits <i>or</i> no access	- Limitation to core benefits: a, d, e and f - or access to all benefits but with conditions of time of residence/of legal employment for one or some of them - or legal access but limited/no implementation - or legal access but possible negative consequences for immigrants (for example: risk of expulsion or permit withdrawal if welfare dependent)	Equal access with nationals for all these benefits

**4. ANTI-DISCRIMINATION RIGHTS**

Nº	Indicator	Scale		
		-1	0	1
32	Legislation against ethnic discriminations (mentioning the criteria of “race”, “origin”, “ethnic belonging” or other formula referring to ethnic discriminations): type of actions”.	No legislation against ethnic discriminations	Legislation only against actions (for example: to refuse a good or a service to a person due to his/her race/origin)	Legislation against actions and words (oral or written racial defamation; racial insults...)
33	(if a legislation exists) Types of sanctions in case of racially discriminatory hiring	Only fines	Possibility of imprisonment < 2 years maximum	Possibility of imprisonment ≥ 2 years or ≤ 2 years with loss of rights
34	Public structures dealing with ethnic discriminations	None	Structures with only a consultative/ study role	Structures with stronger powers (help and information to victims, significant role in the definition and implementation of public policies, etc.)

## 5. POLITICAL RIGHTS

Nº	Indicator	Scale		
		-1	0	1
35	Right to vote in local elections Split: For each of the three groups <i>Disregard EU nationals for general score</i>	No right	Right: with a condition of length of residence $\geq$ 5 years <i>or</i> with a condition of length of residence <i>and</i> another condition	Right with a condition of length of residence $<$ 5 years
36	Right to stand for local elections Split: For each of the three groups <i>Disregard EU nationals for general score</i>	No right	Right: with a condition of length of residence $\geq$ 5 years <i>or</i> with a condition of length of residence <i>and</i> another condition <i>or</i> restricted to certain posts	Unrestricted right with a condition of length of residence $<$ 5 years

## II – CULTURAL/GROUP RIGTHS

### 1. CULTURAL REQUIREMENTS TO ACCESS THE COMMUNITY

Nº	Indicator	Scale		
		-1	0	1
37	Cultural requirements for obtaining short-term permits Split: For each of the three groups	Language requirement and other cultural conditions (such as knowledge of history/culture/civic knowledge)	- Language requirement only - or cultural requirements only for the renewal of the permit	None
38	Cultural requirements for obtaining long-term residence permits (duration of validity $\geq$ 5 years) Split: For each of the three groups	Language requirement and other cultural conditions (such as knowledge of history/culture/civic knowledge)	- Language requirement only - or cultural requirements only for the renewal of the permit	None
39	Cultural requirements for naturalization (first generation immigrants) Split: For each of the three groups	Language requirement and other cultural conditions (such as knowledge of history/culture/civic knowledge)	Language requirement only	None

## 2. LANGUAGE PROGRAMS

Nº	Indicator	Scale		
		-1	0	1
40	Host-country language programs for immigrant adults	None or totally private-funded programs	- Private programs receiving public subsidies but these only represent a part of their funding - public-funded programs but limited/rare implementation	Public programs
41	Host-country language programs for immigrant children	None or totally private-funded programs	- Private programs receiving public subsidies but these only represent a part of their funding - public-funded programs but limited/rare implementation	Public programs

## 3. SCHOOLING

Nº	Indicator	Scale		
		-1	0	1
42	Possibility of public funding for Muslim private-owned schools (full time schools)	No possibility <i>and</i> existence of such a funding for other denominational schools (dominant religion in particular)	No public funding for any kind of denominational private-owned schools	Possibility of public funding
43	(if there is a possibility) Number of public-funded Muslim schools (full-time schools)	None	Rare structures $\leq 0,1$ school for 1 000 Muslims in the locality	More developed structures
44	Possibility of public funding for other minority group private-owned schools (full time schools) Split: For each of the three groups	No possibility <i>and</i> existence of such a funding for other private-owned schools	No public funding for any kind of private-owned schools	Possibility of public funding
45	(if there is a possibility) Number of public-funded minority group schools (full-time schools) Split: For each of the three groups	None	Rare structures $\leq 0,1$ school for 1 000 persons of the minority group s in the locality	More developed structures
46	Cultural/language courses for pupils of minority	None or totally private-funded	- Only partly public-funded/supported	Public-funded programs with

	groups inside public schools (courses on their original language and/or culture) Split: For each of the three groups	programs	programs (for example: subsidies not representing the total of the budget; only public buildings granted for these courses, etc.) -public-funded programs but limited/rare implementation	implementation
47	Changes in public schools 'curriculum to take into account the cultural diversity of society  <i>Note: changes here are not to mean in the last 2-3 years, but as compared to the "traditional" vision of the country. So those changes may have taken place a long time ago.</i>	None	-Limited changes (for example, small sections in the history/geography/citizenship education/religious education... curricula about immigration or the cultural differences existing on the national territory, etc.) -significant changes (multiculturalism explicitly recognized as an important line of the curriculum) but limited/rare implementation	Multiculturalism/cultural diversity are explicitly recognized as important lines of the school curriculum

#### 4. RELIGION

Nº	Indicator	Scale		
		-1	0	1
48	Religious education in public schools	Religious education classes where the majority religion is predominantly or exclusively evoked	- No religious education in public schools - Islamic classes possible but limited/rare implementation	Religion-specific classes including Islamic ones (families choose to have them or not)
49	Islamic religious signs in the public sector	Not allowed	- allowed under some conditions - or no public regulation and not well tolerated in practice	- allowed without conditions - or no legislation and tolerated in practice
50	Islamic religious signs in the private sector	Not allowed	- allowed under some conditions - or no public regulation and not well tolerated in practice	- allowed without conditions - or no legislation and tolerated in practice

51	Islamic breaks for praying	Not allowed	- allowed under some conditions - or no public regulation and not well tolerated in practice	- allowed without conditions - or no legislation and tolerated in practice
52	Cemeteries and burial according to Islamic rite	Not allowed	- allowed under some conditions - or no public regulation and not well tolerated in practice	- allowed without conditions - or no legislation and tolerated in practice
53	Local public budget for mosques (building and managing)	No possibility of public funding <i>and</i> existence of such a funding for buildings of other religions	No public funding for any kind of religious buildings	Possibility of public funding.

## 5. MEDIA

Nº	Indicator	Scale		
		-1	0	1
54	Islamic religious programs in public and state-subsidized private broadcasting (not including cable and satellite)	None	<1 hour a week	≥ 1 hour a week
55	Programs in public and state-subsidized private broadcasting (not including cable and satellite) for other minority groups or for the whole immigrant population Split: For each of the three groups	None	<1 hour a week	≥ 1 hour a week

## 6. LABOUR MARKET: GROUP RIGHTS

Nº	Indicator	Scale		
		-1	0	1
56	Affirmative actions for ethnic minorities in the private sector Split: For each of the three groups	None	- In some companies only: no public regulation/incitation about this - or public incitation/regulation but not targeted specifically to immigrants/ethnic	Public regulation/incitation (reporting on workforce composition, incitation to implement quotas, financial incentives

			minorities but to all disadvantaged people	for the employment of people of ethnic minorities, etc.)
57	Affirmative actions for ethnic minorities in the public sector Split: For each of the three groups	None	Report, studies on the workforce composition only	Stronger measures (quotas regulation, targets to be achieved, etc.)
58	Measures to further the integration of foreigners into the labour market Policy targets to reduce unemployment of foreigners Policy targets to promote vocational training for foreigners	No elements	- Any of these elements (or other) but not all - or limited/rare/to be done implementation - or targeted to some categories of immigrants only	All elements

### **III - GENERAL POS**

#### **1. CONFIGURATION OF POWERS**

Nº	Indicator	Scale		
		-1	0	1
59	Degree of federalism and decentralization	Scoring on the basis of Lijphart's indicators and values		
60	Decentralization at the local level: sub-local public structures (at the level of district, neighbourhood) with political powers	None	Limited powers: low budget, only a role of implementation and no role in the definition of local policies, which is centralized	Greater powers: specifically in charge of some sectors of public policies (definition and implementation), involvement in the definition of the whole city 's local policies
61	Power distribution in the city	- The executive (e.g. mayor and deputy mayors) is dominant in the decision-making - Balance of powers between the executive and the legislative (e.g. local council) - The legislative is dominant		
62	Electoral systems – Local level	Only majoritarian	Predominantly majoritarian with a degree of proportionality	Proportional representation
63	Party systems in the city	- Two-party system - Multiparty system		
64	Party(ies) in power in the city	- one party - a coalition of parties		
65	Party (ies) in power – National Level	- Right - Centre - Left <u>over the 10 past years</u>		

66	Party (ies) in power – Local Level	- Right - Centre - Left over the 10 past years
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## 2. PARTICIPATION MECHANISMS

Nº	Indicator	Scale		
		-1	0	1
67	Referenda (Local level)	No possibility of referendum	Only consultative referenda	Binding (the measure cannot be adopted or must be abrogated)
68	Who can initiate the referendum? (Local level)	No possibility of referendum	Only the local council/the mayor	Also a percentage of the citizens (“Popular initiative” referendum)
69	Number of (consultative or binding) referenda held over the past 10 years (Local level)	<5	≥ 5<10	≥ 10
70	Existence and type of citizen assemblies (Local level)	None	- Not institutionalized, occasional citizen assemblies - Not transparent representation of citizens (representation through associations only; strong presence of local officials, political parties within such bodies, etc.) - Not really working (very occasional meetings, very limited participation of citizens within them, etc.)	Institutionalized citizen assemblies (with regular meetings, etc.)
71	Powers of citizen assemblies (Local level)	None	Only consultative	Stronger power in the decision-making
72	Involvement of civil society organizations (associations, foundations interest groups...) in the <u>definition</u> of local policies	None	Informal and optional consultation	Formal, regulated consultation
73	Involvement of civil society organizations (associations, foundations interest groups...) in the	None	In partnership with public institutions	Full delegation of powers for the implementation of policies

	<u>implementation of local policies</u>			
74	Pluralism of the participation / intermediation of interests system in the city	<ul style="list-style-type: none"> <li>- Only one major organization of the civil society is consulted</li> <li>- or no defined participation /intermediation of interests system in the city</li> </ul>	Coordinated and corporatist system (which gives preference to “traditional” organisations such as trade unions and employers’ organisations)	Pluralist system (various interest and issue groups taken into account in the decision-making process)
75	Is there a specific department in the local council devoted to promote citizen participation?	No department and no specific policy	No department, but there is a policy integrated within various departments	There is a specific department devoted to promote citizen participation policies
76	Is there a bill of rights or a similar local legislation that regulates how citizens can influence the decision-making processes in ways other than selecting their elected representatives?	None	Yes, there exists a regulation but it is very restrictive in terms of the rights of participation granted to citizens	Yes, there exists a regulation and it provides various mechanisms to participate during decision-making processes (hearings, appeals, consultation bodies, etc.)
77	Number of local-council-owned buildings granted to associations as meeting spaces Raw number per 1,000 inhabitants			
78	Average percentage of local budget devoted to subsidising associations in general (1995-2005) Raw percentages			
79	If there are sub-local public structures: do citizens have participation mechanisms within these structures?	No sub-local public structures or citizens do not elect the officials at these bodies (they are appointed by the city council)	There are sub-local public structures but citizens have limited influence (mostly reduced to their vote to select the representatives at these bodies)	Yes, citizens (or associations) have substantial participation mechanisms in these sub-local structures (e.g. consultation, participation in meetings, etc.)

#### **IV – SPECIFIC POS (related to immigration & ethnic relations)**

<b>N°</b>	<b>Indicator</b>	<b>Scale</b>		
		<b>-1</b>	<b>0</b>	<b>1</b>
80	Main responsibility for immigrants 'integration policies'	National government	Balance of powers between national and local governments	Local government
81	Public information and support services for immigrants at the local level (which inform them about their rights, the institutions to which they can address, etc.)	None	Little developed	More developed (well-organized services, with, for example, interpreters, large opening hours, personal advice, following etc.)
82	Which institution (s) has(ve) the leading role in the field of immigrants' integration? – Local Level	Local councillors The mayor A specific deputy mayor / A deputy mayor with other tasks as well A specialized service/a not specialized service, etc.		
83	Policies related to immigrants' integration at the local level	None	Only studies, collection of data and/or policy papers about immigrants 'integration'	Actual implementation of policies (with specific budgets)
84	Is there a specific department in the local council devoted to immigrants' integration policies?	No department and no specific policy	No department, but there is a policy integrated within various departments	There is a specific department devoted to immigrants 'integration policies'
85	Percentage of total local budget devoted to immigrants' integration policies. Raw percentage			
86	Council/board/assembly that represents immigrants/minority groups (for example, in France, the Parisian Council of Non-Eu foreigners)	None	- Informal and optional consultation - not (really) working institution	Formal, regulated consultation
87	Involvement of minority/immigrant organizations in the <u>definition</u> of local policies Split: For each of the three groups	None	Informal and optional consultation	Formal, regulated consultation
88	Involvement of minority/immigrant organizations in the	None	In partnership with public institutions	Full delegation of powers for the implementation of

	<u>implementation</u> of local policies Split: For each of the three groups			policies
89	Involvement of organizations specialized in immigration/integration issues in the <u>definition</u> of local policies	None	Informal and optional consultation	Formal, regulated consultation
90	Involvement of organizations specialized in immigration/integration issues in the <u>implementation</u> of local policies	None	In partnership with public institutions	Full delegation of powers for the implementation of policies
91	Involvement of organizations playing a relevant role for immigrants' integration (such as Human rights organizations) in the <u>definition</u> of local policies	None	Informal and optional consultation	Formal, regulated consultation
92	Involvement of organizations playing a relevant role for immigrants' integration (such as Human rights organizations) in the <u>implementation</u> of local policies	None	In partnership with public institutions	Full delegation of powers for the implementation of policies
93	Involvement of the local power in the funding of minority/immigrants organizations	No public funding available for these organizations	On the same basis of as "autochthonous" or "non-ethnic" organizations	<ul style="list-style-type: none"> <li>- Separate funding schemes addressed to "immigrant" or "ethnic-based" organizations</li> <li>- or clear specific policy to favour the funding of these organizations (for example: a certain amount is reserved to these organizations or some "points" are given to their applications)</li> </ul>
94	Requirements to be able to apply for subsidies	Strong requirement concerning the language that should be used	Only requirements concerning the type of activities implemented	No requirement other than those for "autochthons"
95	Party arrangements to	None	Informal attempts to	Formal attempts

	favour the presence of persons with ethnic minority background in the leadership of the party – Local level Split: For each of the three groups		encourage their presence	(quotas regulation, targets to be achieved, special lists presented, etc.)
96	Party arrangements to favour the presence of persons with ethnic minority background in the party (rank-and-file members)– Local level Split: For each of the three groups	None	Informal attempts to encourage their presence	Formal attempts (quotas regulation, targets to be achieved, special lists presented, etc.)
97	Share of radical right and anti-immigrant parties in the electoral vote – National level: general elections <u>Mean over the 10 past years</u> (raw percentage)	> 10	> 5 ≤ 10 %	≤ 5 %
98	Share of radical right and anti-immigrant parties in the electoral vote – Local level: general elections <u>Mean over the 10 past years</u> (raw percentage)	> 10	> 5 ≤ 10 %	≤ 5 %
99	Share of radical right and anti-immigrant parties in the electoral vote – Local elections (city council) <u>Mean over the 10 past years</u> (raw percentage)	> 10	> 5 ≤ 10 %	≤ 5 %

## **GENERAL CONCLUDING COMMENTS**

⇒ More global evaluation of the openness of the situation for immigrants, for each main dimension: various categories of individual rights (access to the community, family reunion, and so on), of cultural/group rights (schooling, religion and so on...), general and specific POS. Has the situation gone towards more openness over the years?

- Comparison between the different levels:
  - Is the situation more open for individual/group rights? Is there a gap between these two levels of rights?
  - Is a favourable situation concerning general citizens' participation mechanisms concomitant with a same open situation with regard to immigrants' participation?
- Comparison between the situations of the 3 immigrant groups.

## **COUNTRY AND CITY**

France<sup>2</sup>

Lyon urban area (the “Grand Lyon”, i.e. the Greater Lyon).

Focus on 11 cities : Lyon, Bron, Caluire-et-Cuire, Décines-Charpieu, Meyzieu, Oullins, Pierre-Bénite, Sainte-Foy-lès-Lyon, Vaulx-en-Velin, Vénissieux, Villeurbanne.

## **INTRODUCTION**

Immigration to France is an old phenomenon. In the 20<sup>th</sup> century, three main immigration waves have occurred. France is no longer the “immigration land” it was during the 1920s-30s or the 1950-70s, and the foreign-born population living in France has been very stable for 25 years now. Since the decision to put an end to the labour immigration programmes (working guests) in 1974 and to only favour family reunion, labour-related immigration has been drastically reduced. Around 100 000 immigrants come to France each year and a similar number are naturalized, which explains the stability of the statistics related to the foreigner population in France for two decades. Family links constitute the major source of immigration in France nowadays. Foreigners that entered France for family reasons represent more than 70 % of the total of admissions on the territory for at least one year. Work immigration is quite limited, representing about 5 % of the total. This greatly contrasts with the situation of other countries, in Europe or North America, which have chosen to implement a selective immigration policy granting a significant place to workers and especially highly qualified ones. As for refugees and asylum seekers, they represent 8 % of the total. Among family immigration, family members of French persons represent the very highest proportion (two thirds of family immigration), especially spouses of nationals. Foreigners that entered France on the basis of family reunion represent a lower but significant part of immigration. The two-thirds of foreigners immigrating to France today come from Africa, especially North-Africa. Regarding the existing immigrant groups in France, almost half of the immigrants are European (45 %).

Immigration has been regularly at the core of the public and political debates in France for two decades. The debates have focused around three main issues.

First, the conditions of entrance and stay of new immigrants in the French territory have been questioned. However, since the mid-1970s, the global objective of policies in this field have little varied overall since all governments, either right-wing or left-wing ones, have rather argued in favour of the limitation of immigration flows (in a context of high unemployment and degradation of the economic situation) and of the fight against illegal immigration. Such policy lines have certainly encouraged a negative vision of the presence of immigrants in France. Work immigration has been severely restricted since the 1970s, the official objective having even been, for a long time, to stop it. Only high-qualified workers and workers with special qualifications in the economic sectors undergoing workforce shortages have been given an advantage. This trend has been developed in the last few years, with the increasing awareness of the needs for a supplementary workforce in some specific economic sectors. The current government’s policies, and especially the Home Secretary, Nicolas Sarkozy, have emphasized the image of a “chosen immigration”, which notably means a work immigration fitting the needs of the French economy. The recent law of July 2006 enforced such

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<sup>2</sup> The report for the metropolitan area of Lyon has been prepared by Géraldine Bozec, a member of the French LOCALMULTIDEM team.

orientations by setting up a partial reopening of frontiers as far as workers with specific qualifications are concerned. While the overall goals of the policies related to entrance and stay in France – limiting legal immigration flows and fighting against illegal immigration – have been quite stable, it must however be noted that the policies have also varied according to the majority in power. The rules regulating the conditions of foreigners' entrance and stay in France have been modified very often according to political changes in the majority in power. This has especially concerned the right to stay and the stability in the status of family members of foreigners settled in France and of French people, and the repression against illegal immigration. The left-wing governments have generally implemented more flexible and open rules in such fields compared to right-wing ones, even though the overall objectives were the same. They have notably set up procedure guarantees in the field of expulsion, and, regarding foreigners having significant personal links (essentially due to residence) and family links in France, measures of protection against expulsion and easier access to short-term permits (even for illegal immigrants) and long-term permits to stay. In the 2000s, two laws were adopted by the right-wing majority: the law of November 26 2003 and the law of July 24 2006, known as the "Sarkozy laws" (from the name of the then Home Secretary). Overall, they tightened the conditions for entering and staying in France, enforced measures against illegal immigration and against fraud and abuse of legal procedures (especially paternity and marriages of convenience). The provisions for entering and staying in France for family members of resident foreigners and nationals were particularly hardened, especially their possibility to access long-term resident permits. The law of 2006 suppressed the system of regularization that existed before for foreigners long-settled in France (for 10 years). These laws were much discussed in France and denounced by different actors, especially associations of human rights and support to immigrants, left-wing political actors and some intellectuals. It was especially argued that the importance of fraud was completely exaggerated by the government in order to restrict the rights granted to immigrants and that the new legislation would favour an increase in the number of immigrants with precarious status and of undocumented immigrants who can neither return nor be regularized (GISTI, 2006 ; Weil, 2005).

The recent development in the immigration legislation is also influenced by the development of EU regulations in this field as policies of immigration and asylum are no longer under the exclusive responsibility of the member-States since the Amsterdam Treaty of 1999. That is why the recent laws suppressed the obligation to hold a permit to stay for EU citizens, set up the recording of foreigners' fingerprints asking for a visa or a permit to stay, and increased to 5 years the required time of residence to get a long-term resident permit for some categories of foreigners.

In the field of immigration, the general rules are defined in the "Code of foreigners' entrance and stay and asylum law" (CESEDA). Special provisions, generally more favourable, exist for Algerian and Tunisian migrants in accordance with the bilateral agreements signed between France and each of both countries (with Algeria in 1968 and Tunisia in 1988). The rules applying to these categories of migrants depend on these agreements. The points that they do not explicitly deal with come under the common law; this is especially the case of the measures of removal from the French territory. The amendments to the Franco-Algerian agreement in 2001 and to the Franco-Tunisian agreement in 2003 largely brought the statuses of these migrants into line with that of other migrants by suppressing a part of their advantages. However, with the laws of 2003 and 2006 on immigration, which globally modified the common rules in a restrictive way, the provisions for Algerian and Tunisian immigrants became much more favourable again compared to other categories of migrants.

Other major issues of the French public debate related to immigration do not concern foreigners only, but the place of immigrants and their descendants as well (the second and third generations) in the French society. This covers two aspects: the socio-economic disadvantages of people from ethnic minority groups and the way cultural diversity and minority identities are tackled in France. Such issues have been significant matters of concern for the last two decades and have put into question the traditional French “model of integration”, which is based on an individualistic conception of integration and a negative vision of any institutional scheme based on a recognition of groups and minorities as such.

## **INSTITUTIONAL POS INDICATORS**

### **I – INDIVIDUAL RIGHTS**

#### **1. ACCESS TO THE COMMUNITY**

##### ***Types of permits existing in France***

Except EU citizens, any foreigner aged 18 years old and more has to hold a permit to stay if he/she wishes to stay in France beyond 3 months (or beyond the duration of validity of his/her visa). In most cases, he/she must ask for it in the two or three months following his/her arrival in France.

There are two main types of permits:

- **The “temporary stay permit”** (“carte de séjour temporaire”): this is a short-term permit, whose duration of validity is 1 year maximum in most cases<sup>3</sup>. Regarding Algerians, this permit is called “one-year certificate of residence”.
- **The “resident permit”** (“carte de résident”): this is a long-term permit, which is valid for 10 years and automatically renewable. Concerning Algerians, this permit is called “certificate of residence valid for 10 years”. When the holder fulfils the conditions provided for by the EU directive and the French law which transposed it in 2006, the permit contains the mention “long-term EC resident” (see below).

Three others types of short-term permits (entitling to stay less than 5 years) exist:

- **The permit “Skills and talents”** (“carte Compétences et talents”): this permit was created by the law of July 24 2006, in order to give an easier access to the territory to highly-qualified and talented people, who are likely to contribute to the economic development and influence of France and of their country of origin. This permit is issued for 3 years and renewable.
- **The “retired people permit”** (“carte retraité”): this permit is issued for retired people receiving pensions, who lived in France as long-term permit holders and now live abroad. The permit is valid for 10 years and automatically renewable. It allows the holder to stay in France for periods shorter than 1 year.

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<sup>3</sup> In different situations, short-term permits are granted for more than 1 year. When renewing their short-term permit, students and scientists can ask that this is issued for more than 1 year, in the limit of 4 years. A permit with a duration of validity of 3 years (and that is renewable) is granted to some specific categories of workers: seasonal workers who can carry out seasonal activities during no more than 6 months a year and employees sent on mission in France by a foreign company. In this latter case, the law does not specify any maximal duration for the stay in France, thus it is possible that the holder of such a permit (with the mention “employee sent on mission”) lives in France permanently.

- **The “temporary permission to stay”** (“autorisation provisoire de séjour”, APS): it has a variable duration of validity, but rarely over 6 months. It is issued for specific categories of foreigners, such as asylum seekers waiting for the processing of their application, foreigners admitted temporally to France for humanitarian reasons, foreigners wishing to carry out a voluntary service in France and highly-trained students when they search for a job corresponding to their qualification.

The main short-term permit – the “temporary stay permit” (or the “one-year certificate of residence” for Algerians) – is issued for different motives (it has a mention on it accordingly), which determine specific obligations and rights:

- **Visitors:** Visitors do not have the right to work and must prove that they have sufficient economic resources for their livelihood.
- **Students:** they can work without a work permit, but not beyond 60 % of the legal annual duration of work (if they do, their permit may be withdrawn).
- **Trainees:** they must have an internship agreement and sufficient economic resources.
- **Scientists:** foreigners coming in France as higher-education teachers or researchers have a specific permit, provided they prove that they will be integrated in a research/higher-education institution.
- **Artistic and cultural profession:** in this case, foreigners have to present a contract (whose duration is over 3 months) with an artistic/cultural organization.
- **Employee or self-employed:** specific permits to stay are issued for employees or self-employed foreigners, who have, in most cases, to also hold a work permit (see below: indicator n°4).
- **“Private and family life”:** in most cases, this permit is automatically issued. This means that contrary to other types of short-term permits, the issuance is not based on a discretionary decision of the administration and constitutes a full right for the foreigner fulfilling the legal conditions. This situation concerns different categories of immigrants:
  - Family members joining foreigners settled in France through a family reunion procedure
  - Family members of “long-term EC residents” admitted to live in France and of holders of permits with the mentions “scientist”, “skills and talents”, “employee sent on mission” (all those categories do not need to go through a family reunion procedure, see the section on family reunion)
  - Spouses of nationals and parents of national minors
  - Foreigners who have lived in France (even illegally) since they were 13 years old maximum (or since they were 10 years old in the case of Tunisians) or cared by public social assistance institutions since they were 16 years old maximum
  - Foreigners born in France who have lived in France for at least 8 years and who have been educated in a French school for at least 5 years from the age of 10 years old
  - Other foreigners who do not come under the previous categories but have significant personal and family links in France
  - Foreigners recognized as stateless people and their family
  - Foreigners who are in France to receive a medical treatment (for a serious medical problem) provided they cannot receive an appropriate treatment in their country of origin.
  - Foreigners who receive benefits for industrial injuries or professional diseases

- Foreigners who have obtained the subsidiary protection<sup>4</sup> and their family.

The provisions for Algerians and Tunisians are more favourable since they also include foreigners who have lived in France for 10 years (or 15 years if they were students during this period), even illegally. This provision can constitute a means to regularize illegal immigrants long-settled in France. The law of 2006 suppressed this possibility in the general regime.

In two other cases, the issuance of the permit does not correspond to a full right and depends on the administration's assessment:

- The exceptional admission: this concerns foreigners admitted for humanitarian or exceptional reasons (such as a long but illegal residence in France)<sup>5</sup>
- The victims of procuring or human beings trade<sup>6</sup>.

It is important to note that the short-term permit for "private and family life" entitles its holder to work, without having to apply first for a permission to work.

The long-term permit in France – the "resident permit" (or the "certificate of residence valid for 10 years" for Algerians) is issued for 10 years and is automatically renewable. The laws of the 2000s have considerably tightened the conditions of access to the status. Before these laws, there were a significant number of categories of immigrants for whom the access to the resident permit was a full right and was generally not subordinated to a condition of residence in France. The 2003 law suppressed such provisions for family members joining a residence-permit holder and parents of a national minor. The 2006 law did the same for spouses of nationals and foreigners who have lived legally in France for 10 years. Except refugees, the full-right access to the resident permit is now limited to rare and specific situations: under-21 or dependent children of a national and dependent descendants of a national or his/her spouse; foreigners who receive benefits for industrial injuries or professional diseases and have a permanent disability rate of at least 20%; foreigners who served in the Army<sup>7</sup>; stateless persons and their family (if they have lived in France for 3 years). In other cases, the issuance of the permit depends on harder requirements of residence in France and on a new condition of "republican integration", which was introduced in 2003 and strengthened in 2006. Certain categories, such as family members in general, can still access to the status more easily compared to other foreigners, but in less favourable conditions than before (see indicators 6, 7 and 21).

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<sup>4</sup> The French law distinguishes several types of asylum, especially:

- the status of "refugee" strictly speaking (who results from the Geneva Convention of July 18 1951) is granted to persons who have a well-founded fear of being persecuted because of their race, religion, nationality, belonging to a certain social group or political opinions and who are outside their country of origin.
- the "subsidiary protection" is granted to persons who risk being exposed to capital punishment, torture, degrading or inhuman treatments as well as civilians whose life or person is directly threatened in a context of generalized violence.

<sup>5</sup> One of the objectives of such a system is, precisely, to attenuate the effects of the law of 2006, which suppressed the automatic access to a short-term permit with the mention «private and family life» for foreigners who have lived in France for 10 years, even illegally. A special Commission (the "National Commission of exceptional admission") was created in 2006: it has to define the criteria the administration must take into account, in order to harmonize the practices in this field. The Home Secretary will also have the possibility to consult the Commission if a case of refusal to issue the permit is referred to it.

<sup>6</sup> This results from the transposition in the French law of July 24 2006, of the EU directive 2004/81/EC of April 29 2004. Before this law, the victims of procuring or human beings trade were given a simple "APS" (i.e. "temporary permission to stay", whose validity rarely exceeds 6 months and which does not entitle to work.

<sup>7</sup> Those who served in the French Army, in the army of the French "Résistance" (during World War II), in an allied Army and in the "Légion Etrangère" on some conditions.

The special regimes for Algerians and Tunisians are much more advantageous. The access to the resident permit for specific categories of Algerian and Tunisian immigrants (especially family members and long-settled immigrants) is still a full-right. In all cases, the required time of residence is lower compared to the general regime and the condition of “republican integration” does not apply.

The law of 2006 created a new long-term permit (quite similar to the “resident permit”) in accordance with the EU directive 2003/109/EC: the “long-term EC resident permit”. The EU directive created the “long-term EC resident status” that all third-country nationals (except refugees and other protected persons) can acquire if they have lived continuously in a member-State for 5 years (except as students, seasonal workers and other temporary statuses), if they have stable and sufficient resources and a health insurance. The EU directive also stated that the member-States can add integration requirements and refuse to grant the status for grounds related to public security. The permit issued must have a validity duration of at least 5 years and be automatically renewable. This permit gives some specific rights to its holders, especially the right to stay in another EU country on the same conditions as other foreigners except, however, the requirement of having a visa. France transposed this directive in the law of 2006. The conditions to get the “long-term EC resident permit” in France are thus the same than those determined in the directive. The government added a condition of “republican integration” and specified the level of economic resources needed. The “long-term EC resident permit” has a validity duration of 10 years and is automatically renewable. Foreigners who have benefited from more favourable conditions than the common rules to get the “resident permit” – family members in general, foreigners getting it as a full right (see endnote 6), etc. – do not obtain the long-term EC resident status directly. They have to comply with all the conditions required for it (related to residence, economic resources and integration).

With regard to EU citizens, they no longer have the obligation to hold a permit to stay. It is the same for EEA and Swiss citizens. In the EU, this provision only concerns the citizens from the 15 first EU member-States and from Malta and Cyprus, those from 10 of the 12 new member-States still having to ask for a permit to stay if they wish to work in France. Indeed, contrary to what some EU countries did, France decided in 2006 to prolong the transitory phase concerning these 10 countries until May 2009.

The 2003 law introduced the exemption from holding a permit to stay for citizens from EU, EEA countries and Switzerland. The 2006 law confirmed that but specified some conditions. It gave the right to stay in France beyond three months without any permit to any EU (or EEA/Switzerland) citizen who is not a threat to public order and is in one of the following situations:

- he/she has an economic activity (as an employee or a self-employed person) in France;
- he/she does not work (retired people, pensioners, etc.) but has sufficient resources and a health insurance;
- he/she is a student (or in vocational training) and has sufficient resources and a health insurance;
- he/she is an EU (EEA/Swiss) family member of persons coming under the previous categories (spouse, under-21 or dependent child, dependent ascendant). In the case of students, only the spouse and the child are mentioned.

EU (or EEA/Swiss) citizens have only to be registered by the mayor of the city where they live, within the three months of their arrival in France. They can still ask for a permit to stay<sup>8</sup>; they obtain it if they do not constitute a threat to public order<sup>9</sup>.

Third-countries family members of EU (EEA/Swiss) citizens still have to hold a permit to stay. They obtain a permit to stay equal to the sponsor's one. If the sponsor does not have any permit, the family member has to provide information about the sponsor's personal situation in France in order to be admitted and to determine the duration of validity of his/her future permit (which can be 1, 5 or 10 years, depending on the EU sponsor's situation, see indicator 21).

After having lived legally and continuously in France for 5 years, the citizens from EU, EEA countries and Switzerland acquire a right to permanent stay; their family members also acquire this status, whatever their nationality. EU, EEA and Swiss citizens receive a document testifying their permanent stay. Third-countries family members get a “permanent stay permit”, which is valid for 10 years and automatically renewable.

#### a) Short-term permits

##### **1. Automatic acquisition of the permit if mother or father of a national minor child**

In the general regime, a parent of a national minor child can automatically obtain a temporary stay permit (with the specific mention “private and family life”) if he/she has actually contributed to the child's care and education, according to his/her resources, since his/her birth or for at least 2 years. There is no condition related to sufficient economic resources.

The law of 2003 and 2006 restricted the provisions for obtaining a temporary stay permit for parents of a national minor child. Before this law, there were two *alternative* conditions: exerting, even partially, the parental authority, or actually providing for one's child (without a condition of length). The 2003 law only considered the latter requirement and introduced a condition of length of at least 1 year. The 2006 law extended this period of contribution to the child's care and education from 1 to 2 years.

Algerians and Tunisians benefit from much more open conditions. Algerian parents of a French minor child first get a one-year certificate of residence, and, when this expires, they automatically obtain a long-term permit (valid for 10 years). Tunisian parents directly obtain a 10-year permit. In both cases, the parent has to exert the parental authority (even partially) *or* to actually provide for the child (without a condition of length). The provisions for Algerians do not only concern parents as “direct ascendants” are mentioned (which also include grand-parents exerting the parental authority or providing for the child).

With regard to Italian immigrants, such provisions do not concern them since with the 2003 law, citizens of the 15 first EU member-States can live and work in France without any permit to stay.

##### **Scores:**

**General score: 1 (persons from Maghreb, especially Algeria, represent the largest part of immigrants)**

**Algerians: 1**

<sup>8</sup> Holding a permit to stay may be more convenient in some administrative matters, especially in order to benefit more easily from some welfare benefits.

<sup>9</sup> The threat to public order is also a ground for withdrawing the permit to stay. Such provisions are somewhat absurd since holding a permit is no longer an obligation.

**Tunisians: 1**

**Italians: 1**

## **2. Automatic acquisition of the permit if marriage with a national**

According to the CESEDA, a foreigner married with a French person can automatically obtain a temporary stay permit if the life community between spouses has not ended since the celebration of the marriage. There is no condition related to sufficient economic resources.

The 2003 law introduced the condition related to the life community between spouses. This supplementary condition already existed but only for the renewal of the short-term permit or for the access to the long-term one. It is aimed at fighting against marriages of convenience. Some actors (organizations supporting immigrants, left-wing intellectuals and political actors...) criticized this additional requirement; they argued that this may be difficult to meet in practice if the marriage is celebrated abroad, the spouses being less likely in this case to have lived together after their marriage.

These rules do not apply to Tunisian and Algerian immigrants. In their case, the condition related to the life community between spouses cannot be put forward to refuse the issuance of the permit.

With regard to Italian immigrants, they can live and work in France without any permit.

**Scores:**

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians:1**

## **3. Economic resources requirement**

The economic resources requirement does not exist in all cases, depending on the motives of the stay and the status of the foreigner.

There are no economic conditions for some of the “private and family life” permit holders. This concerns foreigners who have significant personal and family links in France (such as family members of nationals, foreigners born in France or arrived when they were children under some conditions, etc.) or who are in specific situations (such as stateless people, foreigners benefiting from the “subsidiary protection”, foreigners who are in France for a medical treatment). These categories represent the major part of immigration flows today.

However, some categories of “private and family life” permit holders must meet economic requirements. In the case of the family reunion procedure, it is required that the resources of the household are at least equivalent to the SMIC (the minimum wage in France, which is 984 euros net per month<sup>10</sup>); family benefits and many other welfare benefits are not taken into account. In addition, there also are accommodation requirements (see below indicator no. 20). It is the same when family members join a long-term EC resident or a holder of the short-term permit with the mention “scientist”, “skills and talents” or “employee sent on mission”.

A “sufficient livelihood” is required for students, trainees and visitors. The texts do not specify any minimum amount, but in practice it is higher than the mere minimum social income (provided by the welfare state to the poorest people).

As for workers, a ministerial circular in 1984 states that the job for which a work permit is asked must enable the foreigner to provide for oneself; thus it requires that the monthly salary is at least equivalent to the SMIC. This comes to not allowing part-time jobs in most cases. However, this circular also states that this condition related to the SMIC must not be required if the foreigner’s spouse also works.

<sup>10</sup> “Net” mean without social contributions, paid for social security (not without income taxes). The gross SMIC is 1254 euros per month.

Concerning Italians immigrants, as other EU citizens, they must have “sufficient resources” too if they live in France as students or non-working people (retirees, pensioners, etc.). However, economic requirements are more theoretical than real for EU citizens: as they can live in France without administrative formalities, these requirements are not checked in practice.

**Scores:**

**General score: 1** (considering certain categories of “private and family life” permit holders, which represent the major part of immigration flows today; **others, such as workers= -1**)

**Algerians: 1** (the same as in the general case)

**Tunisians: 1** (the same as in the general case)

**Italians: 1**

#### **4. Link between work regime and permit regime**

In most cases, foreigners who apply for permits to stay related to work have to apply first for a work permit. If they get it, they obtain a specific permit to stay, depending of the kind of job:

- an “employee” permit to stay, for a job lasting 12 months and over<sup>11</sup>;
- a “temporary employee” permit to stay, for a job lasting less than 12 months;
- a “seasonal worker” permit to stay<sup>12</sup>, which is valid for 3 years and which is directed to foreigners who carry out seasonal works during less than 6 months a year; the specific periods when the foreigner can stay in France to work are specified on the permit;
- a “employee sent on mission” permit to stay, which is valid for 3 years and directed to foreigners sent to France by their foreigner employer and whose wages are equivalent to 1,5 time the SMIC (i.e. 1 881,47 euros in 2006);
- a “self-employed” permit to stay, which is directed to foreigners allowed to carry out an activity in trade, industry or craft industry.

If the foreigner lives abroad, it is the employer who has to present a demand, comprising a project of work contract. If the foreigner already lives in France and wishes to change status to be allowed to work, he/she must present an application comprising a work contract or a commitment to hire from an employer. The state services examine the reasons why the job should be filled by a foreign worker. They can use the level of unemployment in the specific profession in the local area<sup>13</sup> to refuse to issue work permits.

In practice, except for specific professions, it is difficult for foreigners to obtain work permits, the state authorities almost systematically use the argument of the level of employment. Since the decision to put an end to work immigration in 1974, the immigration to France is mainly connected to family links. Only a small number of foreigners enter in France as workers each year (between 5 000 and 7 000, over a total number of entrances of about 100 000).

Only high-qualified workers or workers with specific qualifications in sectors undergoing shortages have been granted advantages. Special instructions have sometimes be given to the state services responsible for issuing work permits in order to favour foreigners with a high level of wages<sup>14</sup> or qualifications and with specific professions (eg. nurses, computer scientists at certain periods etc.). In 2003, such orientations were confirmed by the law itself,

<sup>11</sup> According to the legislation, the work permit can be limited to one or several occupations and geographical areas.

<sup>12</sup> Before the 2006 law, the resort to seasonal workers was only possible in the framework of bilateral conventions between France and other countries : only Morocco, Poland and Tunisia were then concerned.

<sup>13</sup> The refusal cannot be based on a vague reference to unemployment in France or in a given local area. The state services have to examine the situation of employment at the local level in relation to the specific profession and qualification of the foreigner.

<sup>14</sup> Superior to 4 121 euros according to a ministerial circular in 1984.

which allowed foreign scientists and other qualified workers to apply, when they renewed their first permit, for a new permit to stay with a duration of validity superior to 1 year (within the limit of 4 years). The law of 2006 strengthened these policy lines by favouring a partial reopening of frontiers for legal work immigration as far as high-qualified workers and workers in sectors/areas with labour shortages are concerned. In economic sectors and local areas with “difficulties in recruiting”, work permits are still needed but the situation of employment cannot be put forward. The list of professional activities and areas concerned will be soon defined, in partnership with employer organizations and trade unions. In the future, this will certainly favour the resumption of work immigration, but the majority of granted permits to stay will be either for short-term periods or only for certain activities/geographical areas. The 2006 law also created a specific permit to stay called “skills and talents”, but whose impact is limited to a few number of foreigners: it is directed to highly-qualified and talented people, who are likely to contribute to the economic development and influence of France and of their country of origin. It is issued for 3 years and renewable. It allows the holder to practice any professional activity (connected to the project that enables him/her to access to the status), without asking a work permit. In the same way, the current government has also put forward the idea of an “attractiveness policy” of France, aiming at drawing “managing and high-level foreign executives” in France (ministerial circular of March 2006)

Other categories of workers do not need to ask for a work permit because of their specific professions. Scientists only have to prove that they will be integrated in a research/higher-education institution. There also are a few other professions not requiring work permits, such as interpreters, architects, journalists, etc. As for “artistic and cultural professions”, the applicant has to present a contract (whose duration is over 3 months) with an artistic/cultural organization.

Regarding self-employed persons, they have to be allowed to start a business in France. Their business activity must comply with public security, health and peace. The applicant must not have been forbidden to carry out this activity before. The main requirements are economic ones: the foreigner must present a business project with a long-term budget, prove that a bank stands security for him/her or that he/she has sufficient resources on a French bank account to provide for his/her needs.

Some categories of foreigners can stay and work in France without any work permit for other reasons than their qualifications: those who have a temporary permit to stay for “private and family life”. Thus this exemption concerns the major part of people immigrating to France today. “Private and family life” permits directly entitle to work; and the situation of employment cannot be put forward in this case.

The provisions for Algerian and Tunisian immigrants are not different from these general rules. The only exception concerns Algerian traders, who do not need to fulfil the usual requirements and procedure to start a business and only have to be registered.

Regarding Italians, as EU citizens, they can stay and work in France without any permit (of stay and work).

#### **Scores:**

**General score: 1** (considering all the “private and family life” permit holders, who represent the major part of immigration flows today; **others, such as workers, except some professions= -1**)

**Algerians: 1** (the same as in the general case)

**Tunisians: 1** (the same as in the general case)

**Italians: 1**

#### **5. Grounds for withdrawal:**

**a. proven fraud in the acquisition of permit**

**b. sentence for serious crimes**

**c. actual and serious threat to public policy or national security**

**d. sufficient level of resources**

The laws of 2003 and 2006 have significantly extended the number of grounds for withdrawing short-term and long-term permits.

The temporary stay permit can be withdrawn if it was acquired by fraud (falsified documents, marriages of convenience, etc.). It can also be withdrawn if the holder *is liable* to criminal proceedings – thus not only sentenced – on different grounds mentioned in the law (human being trade, procuring, soliciting, theft in public transports, exploitation of beggary, drug traffic). This provision was introduced in the 2000s. In case of threat to public order, the state authorities have first to launch an expulsion procedure, which leads to the withdrawal of the permit.

The fact of having insufficient level of resources or being unemployed are not explicitly mentioned in the French law as possible grounds for withdrawal. However, the general legal principle for short-term permits is that their withdrawal is compulsory if the holder does not fulfil anymore one of the conditions required for the first issue. Hence the economic/employment situation of the holder can be put forward to withdraw the permit in the relevant cases. This excludes the categories of foreigners for which there are no such requirements (see indicator 3), such as family members of nationals and foreigners long-settled in France, which represents the major part of persons immigrating in France today. It must be noted that employment-related permits cannot be withdrawn if the holder has involuntary lost his/her job (see indicator 26).

There are other situations of withdrawal, which were enforced by the recent legislation:

- polygamous family reunion<sup>15</sup> (in this case, the withdrawal is compulsory);
- break-up of common between spouses before 3 years (for foreigners' family members) or before 4 years (for nationals' family members), unless children were born from the couple or the foreigner has been victim of domestic violence;
- if the foreigner makes his/her family members come to France without using the family reunion procedure;
- if the foreigner employs a foreigner who does not have a work permit, or works himself/herself without being allowed to (without work permit or beyond the threshold of 60 % of the legal annual duration of work for students);
- if the foreigner is recorded in the Schengen Information System as non-admitted in another country that have signed the Schengen Agreements.

These rules generally apply to Tunisians. The provisions for Algerians are more favourable since some cases of withdrawal do not apply to them, especially those defined recently by the 2003 and 2006 laws: polygamous family reunion or without using the procedure required; break-up of family relationship; being liable to criminal proceedings for certain offences and crimes (see above); employment of another foreigner who does not have a work permit, etc.

As for Italian immigrants, their situation is a little ambiguous, but, in practice, much more favourable. If they hold a permit to stay, this can be withdrawn if they constitute a threat to public order or if they acquire it without fulfilling the legal requirements (for example having sufficient resources for non-working persons). However, since EU citizens can now stay in France without any permit, the withdrawal of permits to stay is generally not relevant to them.

**Scores:**

**General score: 0**

**Algerians: 0<sup>16</sup>** (for specific categories of “private and family life” permit holders, others: -1)

<sup>15</sup> When the foreigner already lives with a spouse in France and makes a second spouse come to France (or the children he had with a second spouse).

**Tunisians: -1<sup>17</sup>**

**Italians: 1**

**b) Long-term resident permits (duration of validity:  $\geq 5$  years)**

**6. Automatic acquisition of the permit if mother or father of a national minor child**

In the general regime, a parent of a French minor child can obtain the resident permit only if he/she has been legally in France for 3 years (instead of 5 in the common case). Other conditions are stipulated, such as the foreigner's "republican integration", especially based on the respect for the principles ruling the French Republic and the knowledge of the French language (see indicator n°38). Obtaining the permit results from a discretionary decision of the state authorities and thus is not a full-right. These provisions result from the 2003 and 2006 laws. Before 2003, obtaining the long-term permit was a full-right and accessible without conditions of residence and integration. In 2006, the required period of residence was extended from 2 to 3 years. Today, a parent of a French minor child can still obtain a long-term permit more easily compared to other categories of foreigners, but in less favourable conditions than before.

Such general rules do not concern Algerian and Tunisian parents of a French child (see indicator n°1), who can *automatically* access a long-term resident permit, without conditions of residence and of integration. In the case of Tunisians, this is directly possible; as for Algerians, they get the long-term permit when their first one-year permit expires.

Concerning Italian immigrants, such a provision is not relevant to them since they have the right to stay in France without any permit.

**Scores:**

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians: 1**

**7. Automatic acquisition of the permit if marriage with a national**

The general rule is that a foreigner married with a French person can apply for a resident permit if the length of marriage is at least 3 years – so it is not required that the applicant has lived in France – and if the life community between spouses has not been broken down. The two successive laws of 2003 and 2006, aiming notably at fighting against marriages of convenience, restricted the conditions to access this status. The required length of marriage was extended from 1 year to 2 years in 2003, and to 3 years in 2006. In addition, since 2006, the issue of the permit no longer corresponds to a full-right and is subordinated to the condition of "republican integration".

Special provisions, much more favourable, exist for Algerian and Tunisian immigrants married with a French person, who get a resident permit after only 1 year of marriage if the life community between spouses has not been broken down. In addition, the issue of the permit is still automatic and the condition of "republican integration" does not apply.

As for Italian immigrants, they can live in France without any permit, whether they are married with nationals or not.

**Scores:**

<sup>16</sup> In their case, the level of resources (d) is not a ground for withdrawing the permit and the other grounds provided for by the recent legislation do not apply.

<sup>17</sup> The score also applies to some of the "private and family life" permit holders since in their case other grounds than a., b., and c. apply.

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians: 1**

#### **8. Required minimum time of habitual residence**

In 2006, the general rules to acquire the permit have been brought into line with the EU directive of November 2003 creating a “long-term EC resident” status. To get the resident permit, the foreigner must have lived continuously in France for five years (except as students, seasonal workers, workers sent on mission and foreigners benefiting from the subsidiary protection). The 2003 law already extended the required time of residence from 3 years to 5 years and introduced a new condition of “republican integration” (see indicator n°38). The decision to issue the permit results from the administration’s evaluation, which considers, in addition to the residence and integration requirements, a set of various elements showing the applicant’s “intention to settle durably in France”, especially his/her livelihood and the conditions of his/her professional activity if he/she has one. Other elements are taken into account, for example the purchase of a property in France, the family links in France or the schooling of the foreigner’s child(ren) in French schools.

Only a very few number of categories still have a full-right access to the resident permit (without condition of residence in France, resources and integration), such as refugees, dependent children and descendants of nationals, etc. (see p. 26).

The required time of residence is reduced to 3 years for parents of French minors and family members (spouse and children) of residence-permit holders. Spouses of nationals can acquire the status if their length of marriage is 3 years. Regarding such categories of foreigners, the condition of republican integration applies, but they do not have to show evidence of other elements supporting their application, such as the livelihood (see next indicator).

The rules for Algerians and Tunisians are much more favourable. In the general case, the required minimum time of residence in France is still only 3 years and the condition of “republican integration” does not apply. In addition, some categories of Algerian and Tunisian immigrants automatically access the status without conditions of residence and resources:

- family members of Algerian/Tunisian resident permit holders;
- spouses of French people after 1 year of marriage;
- parents of a French minor (however, only when their first one-year permit expires for Algerians).

Regarding Algerians only, it must also be stressed that those who have lived in France since the age of 10 years old maximum, even illegally, are automatically granted a resident permit.

In order to access to the “long-term EC resident” permit, all the foreigners who obtain the resident permit in more favourable conditions compared to the general case (Algerians and Tunisians, other foreigners in specific situations) must meet the legal conditions required (5 years of residence, conditions of resources and integration).

As for Italians immigrants and their families, they automatically have the right to stay in France for a long-term period if they fulfil the legal conditions (working or having sufficient resources). If they have been living in France for 5 years, they are granted the right to a permanent stay.

**Scores:**

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians: 1**

#### **9. Economic resources requirement**

Some categories of foreigners do not have to fulfil economic requirements in order to get the resident permit:

- those who can automatically acquire the resident permit (refugees, dependent children and parents of nationals, etc.)
- parents of French minors
- spouses of nationals
- family members (spouse and children) of residence-permit holders.

Regarding other kinds of immigrants (workers, visitors, etc.) applying for the resident permit, economic requirements do exist and are quite demanding. Before 2006, the livelihood was also a crucial element the state services considered, but the legislation did not specify any minimum amount of resources. In practice, an income lower than the SMIC was often considered insufficient, but this could vary according to each Prefecture and to the foreigner's specific situation. The law of 2006 changed the situation by explicitly specifying a minimum amount. The foreigner's resources must be stable and sufficient and at least equivalent to the level of the SMIC (i.e. 984 euros net per month); the livelihood is assessed by taking into account the housing conditions of the applicant. The family benefits and many other welfare benefits are not taken into account in the calculation of resources.

The Italian immigrants' situation is different. If they do not work (i.e. if they are students or non-working), they must have "sufficient resources" to provide for themselves and their family. The legislation does not specify any minimum amount. Anyway, such economic requirements are rather theoretical since Italians can stay in France without formalities and thus their economic situation is not checked.

**Scores:**

**General score: 1** (considering specific categories – refugees, family members of nationals/resident permit holders, etc. –, which, in total, represent the major part of people immigrating to France today ; **others: -1**)

**Algerians: 1** (the same as in the general case)

**Tunisians: 1** (the same as in the general case)

**Italians: 1**

**10. Percentage of given permits over the total number of applications:– National level**

The data are not available.

**Scores: N.A.**

**11. Grounds for withdrawal:**

- proven fraud in the acquisition of the permit**
- sentence for serious crimes**
- actual and serious threat to public policy or national security**
- insufficient level of resources**

The resident permit can be withdrawn if it has been acquired by fraud.

The withdrawal is compulsory in case of polygamy (including polygamous family reunion), expired permits (resulting from the absence from the French territory for 3 consecutive years<sup>18</sup>) and violence or complicity of violence against minors causing mutilations or permanent infirmity. This latter case was introduced by the 2006 law and is clearly aimed at excision.

The withdrawal is possible in the following situations:

- break-up of common between spouses before 3 years (for foreigners' family members) or before 4 years (for nationals' family members), unless children were born from the couple or the foreigner has been victim of domestic violence;

<sup>18</sup> As for long-term EC residents, the permit expires if the foreigner has lived outside France during 6 consecutive years or outside EU during 3 consecutive years.

- if the foreigner makes his/her family members come to France without using the family reunion procedure;
- if the foreigner employs a foreigner who does not have a work permit;
- if the foreigner is recorded in the Schengen Information System as non-admitted in another country that has signed the Schengen Agreements.
- If the foreigner has been sentenced for threats and acts of intimidation against public officers, for destroying or taking away goods of public spaces or for rebellion. Such provisions were also introduced by the 2006 law. In this case, the resident permit is replaced by a temporary permit to stay.

Except the specific aforementioned offences/crimes, the legislation does not mention either other crimes or the threat to public order as grounds for withdrawing the status. In these cases, the state authorities have first to launch an expulsion procedure, which leads to the withdrawal of the permit.

Unemployment and an insufficient level of resources cannot be put forward to withdraw the resident permit.

The provisions for Algerians are more favourable since some cases of withdrawal do not apply to them, especially those enforced by the recent legislation: polygamous family reunion or without using the procedure required; break-up of family relationship; employment of another foreigner who does not have a work permit, sentence for violence against minors, etc.

The provisions for Tunisians are more favourable too in this case. The resident permit can only be withdrawn in the cases of fraud and expulsion and in the situations explicitly mentioned in the Franco-Tunisian Agreement (polygamy and expiration of permits). It can not be withdrawn in case of break-up of family relationship (if the sponsor is a resident permit-holder) or of sentence for violence against minors.

As for Italian immigrants, their situation is different as they can stay in France without any permit. However, they can be expelled if they constitute a threat to public policy or national security. Regarding the right to permanent stay, they can lose it if they have been absent from the French territory for 2 consecutive years.

**Scores:**

**General score: 0**

**Algerians: 0**

**Tunisians: 0**

**Italians: 0**

**12. Expulsion precluded**

- a. after 20 years of residence as a long-term resident permit holder
- b. in case of minors
- c. residents born in the host country or admitted before they were 10, once they have reached the age of 18

The expulsion is precluded after 10 years of legal residence in France (except if the foreigner has held, during the whole period, a temporary stay permit as a student). However, this protection is only relative for this category of foreigners: they can be expelled if they have been sentenced to a prison sentence of five years (not suspended) or in case of “compelling necessity for the security of the State or the public security”. In principle, this notion is aimed at foreigners guilty of serious crimes such as espionage, terrorism or organized crime, but the state practices tend to divert the rules in order to expel protected foreigners because of the gravity of their crimes/offences.

The protection against expulsion also concerns foreigners who have their habitual residence in France since the age of 13 maximum. Their protection is quasi-absolute: they can only be expelled if their behaviour threatens the “fundamental interests of the State” (notion intended

to refer to crimes such as treason, espionage, plot) or is linked to “terrorist activities” or constitutes “actions of explicit and voluntary provocation to discrimination, hatred or violence against a determined person or group of persons”.

Minors are protected against expulsion, without exception. However, this protection maybe quite theoretical since their parents, if found, can be expelled. There have been significant debates on such an issue over the last years in relation to the expulsion actions carried out by the Home Secretary, Nicolas Sarkozy. Associations supporting immigrants (such as the “Réseau d’Education Sans Frontières”, ie Without Frontiers Education Network) and other actors have launched strong actions in order to prevent the expulsion of families with children schooled in French schools during the school year.

**Scores:**

**General score: 0**

**Algerians: 0**

**Tunisians: 0**

**Italians: 0**

**c) Access to nationality**

There are 3 main modes of acquisition of the French nationality: through birth in France (acquisition at the majority age), through marriage with a national and through naturalization.

**13. Eligibility for second and third generation immigrants (*jus soli*)**

Every foreign parents’ child who is born in France can acquire the French nationality at his/her majority (18 years old) under two conditions: he/she must live in France at his/her majority and must have lived in France during a continuous or a discontinuous period of at least 5 years since the age of 11. This allows a period of absence of two years from the French territory. This provision is aimed at taking into account the more or less long stays of young people in their original country (especially to see their family). The length of 5 years matches up with the compulsory schooling (that is until the age of 16 in France).

When asking for a national identity card, the youngster must show that he/she is French. Then he/she has to ask for a “certificate of French nationality” to the trial court. The acquisition of the nationality is automatic, providing the youngster proves that he/she fulfils the condition of residence with different types of documents: certificates of schooling, contracts of apprenticeship, attestations of employment, of training, etc.

A foreign parents’ child can also acquire the French nationality in an anticipated way, from the age of 13, by his/her own if he/she is 16 and over or through his/her parents’ claim and with his/her personal consent if he/she is under 16 (this consent is recorded by the judge of the trial court during an interview). The same conditions of residence apply (5 years).

Such provisions for the access to nationality have been modified several times over the last years, as this has been a key point in political controversies and dealt with differently according to the political majorities in power. The law of July 1993 introduced a procedure of “declaration of will”: the young had to express his/her will to become French, from the age of 16 until 21, to acquire the nationality, whereas in the former Code of Nationality this acquisition was automatic (providing the conditions of residence were fulfilled)<sup>19</sup>. The 1993

<sup>19</sup> The introduction of a “declaration of will” was first suggested in 1986 by the Jacques Chirac right-wing government but was taken back due to the conflictive debates it triggered. A special committee chaired by Marceau Long was then appointed to examine possible ways to reform the legislation on nationality and wrote a report that later inspired the 1993 law (*Being French today and tomorrow*, 1988). When the right came back to power in 1993, after 5 years of left-wing governments, the intention was clearly made that it would legislate on

law also suppressed the possibility for parents to request the French nationality for their child born in France at his/her birth. Such measures restricting the ways to access the status were much criticized by different actors (left-wing actors, human rights associations and associations supporting immigrants, etc.), who present them as a great breach with the *jus soli* tradition that had prevailed in France so far.

With the return to power of the left in 1997, the rules of nationality were changed again with a new law in 1998. This law restored the full-right acquisition of the French nationality at the majority age. It also reintroduced the possibility for parents to request the French nationality for their under-16 child, but not at his/her birth as it was the case before 1993: the law gave the privilege to the will of the child (who has to express his/her consent), aiming at avoiding the diversion of the procedure to solve problems of permits to stay. The 1998 law also suppressed the condition of a continuous residence of 5 years, which was a quite significant measure as most refusals of anticipated acquisitions of nationality were due, before 1998, to the periods of absence of the child from the French territory.

Special provisions do exist for young people of Algerian origin. The child born in France of Algerian parents who are born in Algeria before its independence (July 3 1962) are automatically French at birth<sup>20</sup>.

**Scores:**

**General score: 0**

**Algerians: 0**

**Tunisians: 0**

**Italians: 0**

**14. Marriage with a national**

The will to fight against marriages of convenience has deeply influenced the changes in the legislation in this field since 1993. Only the law of 1998 eased the regulations related to the acquisition of nationality by spouses of nationals, by reducing the required length of marriage from 2 years (law of 1993) to 1 year. The laws of 2003 and 2006 significantly tightened the provisions for accessing the status.

Today, a spouse of a French person can acquire the French nationality after 4 years of marriage (instead of 2 in 2003). This length is extended to 5 years (instead of 3 in 2003) if the foreign spouse has not lived continuously in France for 1 year since the date of marriage. In all cases, the spouse must be a legal resident in France (since the law of 1993) at the date of the application.

There is also, since 2003, a condition related to the “sufficient knowledge of the French language”. Before 2003, this was not a prerequisite, but only an element for the later government’s opposition to the acquisition of the status (see below the notion of “lack of assimilation”).

An inquiry is conducted by the state services to check the knowledge of the French language as well as the reality of the common life between spouses and the existence or not of grounds for the government’s opposition to the acquisition of nationality.

Once all the conditions legally required are fulfilled (length of marriage, time of residence and knowledge of the French language.), the application can still be rejected through a

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immigration. The new political majority modified the conditions of entering and living in France for foreigners (reforms known as the “Pasqua laws”, from the name of the Home Secretary of the period, Charles Pasqua), and the nationality laws as well (measures set up by Pierre Méhaignerie, Minister of Justice).

<sup>20</sup> The 1993 law introduced a further requirement: the parent born in Algeria before its independence had to have his/her habitual residence in France for five years at the birth of his/her child. This was aimed at avoiding the access to nationality of children with no real links with France. The 1998 law restored the *double jus soli* without conditions for children of Algerian parents born before the independence.

specific procedure: the government can oppose it within 1 year by taking a decree in the Council of the State (ie the highest administrative court). Two kinds of grounds can be at the basis of such a decision: “indignity” and “lack of assimilation”. Indignity refers to serious actions such as the past belonging to a terrorist group, the sentence for fraud in the acquisition of a permit to stay, the sentence for voluntary violence against a spouse, etc. The repetition of facts and their recent date are taken into account. The “lack of assimilation” no longer refers to the knowledge of the French language but to the assimilation to French habits and customs. More specifically, it can be based on the fact that the applicant is living cut off from the French society or shows an actual rejection of the essential values of French society (see below, indicator n°39).

**Scores:**

**General score: 0**

**Algerians: 0**

**Tunisians: 0**

**Italians: 0**

**15. Required minimum time of habitual residence**

The required minimum time of habitual residence to acquire the French nationality is at least 5 years. Temporary absences (length <1 year) are admitted and do not break the 5-year period required. In general, the applicant has to live in France at the moment of his/her application.

Some categories of foreigners are exempted from this requirement of a 5-year residence because of their family or personal links in France or because of their merit:

- family members of a naturalized person;
- foreigners who served in the French army or in the Ally armies during wars;
- persons whose action was/is of exceptional interest for France ;
- nationals from States on which France exerted its sovereignty, protectorate, mandatory or protection;
- nationals from States where French is one of the official languages, whose mother tongue is French or who were educated during at least 5 years in a French school abroad.

The two latter conditions concern the majority of potential applicants for nationality. However, in practice, a small number of applicants get the status after less than several years of residence in France. This gap is connected to the state practices. Generally speaking, applications for naturalization are not examined positively if the applicant has not lived in France for at least 3 years. A circular in 2000 stated that it was often necessary to impose a “period of observation” to applicants recently arrived in France. In addition, the time for the applications processing is long (a law in March 1998 reduced it to 18 months after the receipt of a complete application). It must also be added that naturalization is not institutionally encouraged in France through a significant work of information directed to foreigners. Naturalization is rather considered as an individual and voluntary step of the foreigner and as the crowning achievement of the integration process (and not as a right or something favouring integration). The administration grants the naturalization as a favour, as the jurisprudence in this field shows it (Weil, 2005).

The states services have specified the notion of habitual residence on the basis of the jurisprudence in the field. This refers to a stable and actual residence in France, which coincides with the applicant’s centre of interests: not only family links but also economic interests are considered (circular of May, 2000). Members of family (spouse and children) generally have to live in France and the main source of the applicant’s incomes has to be located in France. The stability of the residence is assessed by taking into account various elements, notably the type of permits held by the applicant (holding a long-term permit is a

strong positive indicator) and the frequency of his/her return travels to the country of origin. The required time of residence is reduced to 2 years for:

- foreigners who carried out studies during 2 years in order to get a degree of a French higher-education institution;
- foreigners who have served or can serve France by their abilities and talents.

**Scores:**

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians: 1**

## **16. Economic resources requirement**

Except some categories (for which the procedure is not that of naturalization: young people born in France, spouses of French persons), there is an economic requirement to apply for nationality. The idea of stable and actual residence in France for 5 years also comprises economic aspects. The applicant must have stable and sufficient resources that enable him/her to provide for his/her needs; the main source of income (work or other) must be located for the most part in France. A circular in May, 2000, specified that the applicant can depend on his/her spouse or a third person with juridical links (legal partner, guardian) with him/her and living in France. The texts do not specify any precise amount, but incomes that are not higher than the minimum social income (provided by the welfare state) are often considered insufficient.

The applications of students are often rejected on this ground, because either their income is insufficient and unstable (for example, they come from a study grant) or it comes from the family who lives in the country of origin.

However, the circular of 2000 also recommended the state services to apply with flexibility the criterion of financial autonomy: the whole personal situation of the applicant must be taken into account and an incomplete professional insertion can be compensated by a good social integration.

**Scores:**

**General score: -1**

**Algerians: -1**

**Tunisians: -1**

**Italians: -1**

## **17. Percentage of approved naturalizations over the total number of applications – National level**

The proportion of positive decisions has increased over the last years because of the favourable orientations decided by the left-wing government: from 67 % in 1998, to 72 % in 1999 and to 79 % in 2003.

The other type of decisions is distributed as follows in 2003:

- 8,4 % of the applications are considered “unacceptable” (which means that they do not comply with the legal requirements, especially those related to residence and “assimilation” – see indicator 39: the insufficient knowledge of the French language represents 40 % of the grounds for unacceptability)
- 0,6 % of the applications are rejected
- 10,8 % are deferred.

(Weil, 2005: figures from the “Sous-Direction des naturalisations”, ie Department of Naturalizations)

The figures for each ethnic group are not available.

**Scores:**

**General score: 0**

### **Algerians, Tunisians and Italians: N.A.**

#### **18. Grounds for withdrawing status**

##### **a. proven fraud in the acquisition of citizenship**

##### **b. actual and serious threat to public policy or national security**

There are two distinct procedures to withdraw French nationality. In both cases, the decision is taken by the government in accordance with the Council of the State, through a decree.

The first is the loss of nationality and concerns all the categories of foreigners who have acquired it (youngster born in France, spouses of nationals, naturalized persons). Various categories of crimes and actions constitute possible grounds, going beyond the only threat to public policy/national security:

- sentence for crimes constituting a breach of “fundamental interests of the nation” or for actions of terrorism;
- sentence for crimes constituting attacks against public administration and committed by persons with public functions;
- non-respect of the obligations related to military service;
- actions that are prejudicial to France’s interests and in favour of a foreign State.

Since the law of 1998, the criminal sentence to 5 years in prison is not anymore a ground for losing the status. The loss of nationality is not automatic if one of these crimes has been committed: the decision belongs to the state services, which scrutinise the cases. The law of 2003 changed the rules related to the actions blamed. Before the law, only the actions committed within the 10 years following the acquisition of the status were taken into account. Since 2003, crimes committed before the acquisition can also be considered.

The other procedure only concerns naturalized persons. It is a procedure of withdrawal strictly speaking, which is based on two grounds:

- the status can be withdrawn within 1 year following the naturalization if the state services realize that the applicant did not fulfil the legal conditions required at the moment of the application. For example, the applicant did not live in France and the state services ignored that when they took their decision.
- the withdrawal can be based on a fraud or a lie in the acquisition of nationality: falsified documents, fact of hiding a situation (family members living abroad, polygamy, etc.). In this latter case, the time limit is 2 years after the discovery of the fraud.

In both cases, the discovered elements should have been decisive for the decision of naturalization.

#### **Scores:**

#### **General score: -1**

#### **Algerians: -1**

#### **Tunisians: -1**

#### **Italians: -1**

## **2. FAMILY REUNION**

Some categories of sponsors can make their family (spouse and children) come in more favourable conditions since they do not need to follow the family reunion procedure. This notably implies that their conditions of economic resources and housing are not checked through a specific inquiry. The family members exempt from the family reunion procedures are the following:

- Spouse and children of French people;

- Spouse and children of a refugee, a foreigner benefiting from the subsidiary protection or a stateless person if the marriage occurred before the acquisition of the status or was celebrated 1 year before the request for family reunion)
- Spouse of a foreigner holding a “scientist” permit (the laws do not mention children)
- Spouse and children of a foreigner holding a “skills and talents” or an “employee sent on mission” permit;
- Spouse and children of a foreigner coming under the categories directed to by the “attractiveness policy” of France, such as managing and high-level foreign executives (in this case, a procedure is enforced before the arrival of the family in France, but does not comprise an inquiry on the conditions of resources and housing of the sponsor).

Concerning the foreigners who acquired in another EU country a “long-term EC resident” status, they benefit from lightened requirements compared to the usual family reunion procedure. Their family members do not have to live outside France at the moment of the request for family reunion (see indicator 19 for the usual procedure). They only have to have lived with the sponsor for 1 year in another EU country.

As for EU citizens, there is no procedure strictly speaking since their family members can be directly admitted when arrived in France and do not have to ask for a permit to stay to remain and work in France.

The requirements of the CESEDA regarding the family reunion procedure do apply to Algerians and Tunisians. But the permits issued to their family members show, again, that they benefit from a much more favourable situation compared to other non-EU immigrants (see indicator 21).

## **19. Eligibility for legal residents**

The very recent law of July, 2006, tightened the conditions for family reunion by extending to 18 months (instead of 1 year before) the length of the sponsor’s legal residence in France that is needed to apply.

Regarding the foreigners who acquired in another EU country a “long-term EC resident” status, there is no condition related to the sponsor’s residence in France. The family members must have lived with the sponsor for 1 year in another EU country.

There are also economic resources and accommodation requirements (see below next indicator). In addition, the sponsor coming from a country allowing polygamy must state on his honour that he does not live in France with another spouse. The law of 2006 also added a supplementary condition: the sponsor must “comply with the fundamental principles recognized by the Republic laws”. This condition is different from the one of “republican integration”, but is not precisely defined in the law. When considering the Parliament debates during the discussion of the law, it may be noted that this was essentially the principles of equality between men and women, of “laïcité” (ie secularity of the public sphere), and of refusal of any discrimination based on origin that were referred to, and not the knowledge of the French language. The interpretation of the Constitutional Council is stricter: it mentioned the essential principles regulating, according to the Republic laws, the family life in France (GISTI, 2006).

Family members must also fulfil some requirements. In general, they must live outside France. They also must not constitute a threat to public order. The application must concern all the family members as the procedure must not be used “to make children come one after the other when they are getting close to the majority age so that they could enter into the labour market”. However, a partial family reunion can be allowed for reasons related to the

interest of children (medical reasons, education in the country of origin, accommodation in France too cramped for the whole family, etc.).

Italian residents, as EU citizens, have the right to make their family come without using any specific procedure and without a condition of legal residence in France.

**Scores:**

**General score: 0**

**Algerians: 0**

**Tunisians: 0**

**Italians: 1**

## **20. Economic resources requirement**

The resources of the resident must be “sufficient” and “stable”.

They must be at least equivalent to the “SMIC” (i.e. the minimal wage in France: 984 euros net per month) and are calculated on the 12 last months before the application. The resources of the resident and of his/her spouse as well are taken into account. All kinds of incomes are considered, except most welfare benefits. The law of July 2006 specified that the resident must provide for his/her family thanks to his/her work incomes without having recourse to welfare benefits.

The resources also have to be stable. That is why a temporary work contract or information about a program of lay-offs often causes a refusal. Nevertheless, the official guidelines given to prefectures mention that having a temporary job must not systematically lead to a refusal if the applicant has had sufficient resources during the last 12 months. But it is this condition of stability of resources that lead quasi-systematically to the rejection of the application of foreign students living in France.

There are also housing requirements, the accommodation having to comply with some norms of cleanliness (drinking water, water-closets, heating) and of size (16 m<sup>2</sup> for 2 persons, 25 m<sup>2</sup> for 3 persons, etc.).

In practice, most refusals are based on the requirements of resources or housing.

The law of 2003 modified the wording for the requirement of resources, replacing the one of 1998 – “the insufficiency of resources cannot justify a refusal if they are higher than the SMIC” – by the one in force before 1998: “the resources must reach an amount at least equal to the SMIC”. This change may lead to a restriction of the family reunion procedure as it gives the possibility to refuse it if the resources, yet equal to or higher than the SMIC, are considered insufficient compared to the family’s needs. Although the Council of the State (one of the highest administrative court) judged this practice illegal, some state services assessed the resources according to the actual needs of the family before 1998.

Concerning foreigners who acquired a “long-term EC resident” status in another EU country, the requirements related to resources and accommodation are the same.

As for Italian residents, the EU texts do not impose other conditions than having a “decent accommodation”. The EU circular of June 7 2004 specified that for descendants aged 21 and over and ascendants, the EU citizen has to prove that he is able to support. But nothing more detailed is mentioned nor concerning the spouse and the under 21 children.

**Scores:**

**General score: -1**

**Algerians: -1**

**Tunisians: -1**

**Italians: 1**

## **21. Duration of validity of permit**

The laws of 2003 and 2006 hardened the provisions related to permits in case of family reunion. Since 2003, family members hold a one-year temporary permit to stay, which is the “private and family life” permit. Before this law, they were entitled to hold a resident permit

if the sponsor holds a resident permit. Family members can apply for a resident permit only after having lived in France for 3 years (if the sponsor holds a resident permit) or 5 years (if the sponsor holds a temporary permit to stay (this latter situation corresponds to the general case). This required time of residence was extended in 2003 (from 1 to 2 years) and again in 2006 (from 2 to 3 years). The spouse also has to fulfil the condition of “republican integration” to get the resident permit since 2003.

These new provisions do not apply to Algerians and Tunisians due to the specific bilateral agreements existing between France and both countries. Family members of Algerian and Tunisian resident permit holders are still entitled to directly hold a residence permit (which lasts 10 years and is automatically renewable). If the Algerian/Tunisian sponsor has a temporary permit to stay, the family members obtain the same type of permit (and can renew it at the same time as the sponsor does). They can ask for a resident permit on the general conditions (which are 3 years of residence for Algerians and Tunisians).

Regarding family members of foreigners who acquired in another EU country a “long-term EC resident” status, they get a “private and family” permit, whose duration of validity cannot be longer than the sponsor’s one. Contrary to the general case, this permit does not give the right to work but only during the first year.

As for the family members of Italians living in France, they are exempt from the obligation to hold a permit to stay if they are EU citizens too. Non-EU family members automatically obtain a permit equivalent to that of the sponsor (or, if this one does not have any permit, to that he would have been entitled to hold). The permit given to them is a “European Community permit”, whose duration of validity can be 1, 5 or 10 years, depending on the sponsor’s situation (1 year for students, 5 years for non-working people and 10 years for working people). This permit is automatically renewable, except for the family members of students or non-working persons: in their case, the renewal depends on the same conditions as the first issue.

#### **Scores:**

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians: 1**

#### **22. Grounds for withdrawing the status:**

- a. Public policy or security major threat**
- b. Proven fraud in the acquisition of permit (inexistent relationship or misleading information)**
- c. Break-up of family relationship (before three years)**

The serious threat to public order is a ground for expulsion, which goes together with the withdrawal of the permit. The permit can also be withdrawn if it was acquired by fraud. It is the state authorities that have to prove the existence of the fraud.

The legislation also provides for 3 other cases of withdrawal:

- The break-up of the common life between spouses within the 3 years following the acquisition of the status is also a reason for withdrawing the permit. This period was extended from 2 to 3 years in 2006. However, this does not apply if the foreigner has been victim of domestic violence (since 2003) or if children were born from the couple (since 2006).
- In general terms, the withdrawal of the status is compulsory in case of polygamous family reunion. The permits of the sponsor and his family members as well are withdrawn.
- The sponsor’s and family members’ permits can also be withdrawn if the sponsor makes his/her family come without using the family reunion procedure (except if he/she is

protected against expulsion due to his/her ties in France).

These 3 cases of withdrawal are not mentioned in the Franco-Algerian Agreement and hence do not apply to Algerians.

They apply to Tunisians except the break-up of family relationship if the sponsor is a resident permit holder.

Regarding Italians, family members can remain in France without any permit if they are EU citizens, so the situation of withdrawal is not really relevant in their case. But if they are subject to an expulsion procedure (in case of serious threat to public order), they lose their right to remain in France. As for non-EU family members of Italians, who have to hold a permit, the permit is withdrawn if there is an expulsion procedure. The legislation does not explicitly mention the break-up of family relationship as a ground for withdrawal in their case.

**Scores:**

**General score: 1**

**Algerians: 1**

**Tunisians: -1**

**Italians: 1**

**23. Right to autonomous resident permit for partners and children**

Contrary to the spouse, children do not need to have a permit to stay before the age of 18, or before the age of 16 if they want to work.

In the general case, children and partners can apply autonomously for a resident permit if they have been living in France continuously for 5 years, which corresponds to the general condition to get this long-term permit. The provisions for Algerians and Tunisians are more favourable since they can apply after only 3 years of residence.

As for Italian family members, they can remain autonomously in France without asking for a permit and without a condition of previous residence, if they fulfil the legal provisions (working in France, or having sufficient resources and a health insurance if they are students or non-working people). As for non-EU family members of Italians, they get a permit which is automatically renewable, except if the sponsor is a student or a non-working person. In this latter case, the non-EU family members must have lived in France for 5 years with the Italian sponsor before being entitled to a permanent stay (which is then independent from their relationship with the sponsor and his/her situation).

**Scores (for both partners and children)**

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians: 1**

**24. Percentage of entrances in the territory through family reunion over the total number of applications– National level**

The data is not available

**Score: N.A.**

### 3. SOCIAL AND ECONOMIC RIGHTS

#### a) Labour market access

##### *- Short-term permits*

###### **25. Access to employment**

Concerning non-EU foreigners, the restrictions in the access to the labour market are numerous. They first concern the whole public sector (including most public companies), except two categories of workers: contract workers (this point was confirmed by the Council of the State in 1993) and academics (foreigner researchers through a regulation in 1982 and University teachers through the laws of 1968 and 1984). In total, it is more than 6 million jobs in the public sector that are forbidden for foreigners.

In the private sector, there are a lot of regulations in various professions that restricts the access to foreigners. Such restrictions do not result from the legislation but from the internal rules of some professions. There is a condition of nationality in 50 professions (which represents 615 000 jobs) and a condition of French degree for 31 occupations (625 000 jobs). (GELD, 2000). While these restrictions are numerous, they are not always applied nor known by all the actors. They do not apply to EU citizens.

In total, it is about the quarter of the labour market jobs (7 millions) that is closed to foreigners.

Another significant limitation is based on the situation of employment, used as a ground for refusing to issue work permits (see indicator 4). Nevertheless, the applications of high-qualified workers or persons working in economic sectors with labour shortages were considered more favourably. The law of 2006 has confirmed these previous lines by suppressing the level of employment as a ground for rejecting work permits in some economic sectors and local areas with labour shortages and by favouring some categories of high-qualified workers. The foreigners who hold a “private and family life” permit can work without asking for a work permit; the level of employment cannot be put forward in their case.

Regarding Italians immigrants, as EU citizens, they benefit from a widely more favourable situation. Regulations related to specific professions in the private sector generally do not concern them, all the more so as there has been a harmonization process in Europe in the field of higher-education degrees. As for the public sector, while the article 48 of the Treaty of Rome excluded public administration from the principle of free circulation, this exclusion was interpreted very restrictively by the Court of Justice of the European Communities, which limited it to activities involving “the exercise of public authority”. Following such an interpretation, a French law in 1991 opened to EU citizens all the public-sector jobs, except those involving “the exercise of sovereignty” and of “the prerogatives of public authority” (Army, judges, fiscal administration, diplomacy).

##### **Scores:**

**General score: -1**

**Algerians: -1**

**Tunisians: -1**

**Italians: 0**

###### **26. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit to stay**

The termination of a work contract is a ground for refusing to renew or withdrawing the temporary permit to stay (but only regarding foreigners applying as workers). This is in line

with the general rule that the temporary permit to stay can be refused for renewal or withdrawn if the applicant no longer fulfils the conditions required for the first issue. However, there is one important exception, which is mentioned in the CESEDA since 2006: if the foreigner has involuntarily lost his/her job within the 3 months preceding the expiration of his/her permit, his/her permit cannot be withdrawn and is automatically renewed for one year.

The Code of Labour already provided for this rule (but without specifying the length of the renewed permit). It also states that when the renewed permit expires, a new extension is granted if the foreigner is still entitled to unemployment benefits (the extension is equal to the duration of unemployment benefits). If not, the foreigner has to apply for a permit to stay on other grounds (family links, visitor, etc.).

Concerning Italians, the situation is different as they do not need to hold a permit in order to stay in France. So their situation with regard to unemployment or economic resources is not checked in practice.

**Scores:**

**General score: -1**

**Algerians: -1**

**Tunisians: -1**

**Italians: 0**

**- Long-term resident permits (duration of validity:  $\geq 5$  years)**

**27 Access to employment**

The limitations to access to the labour market are generally the same whether the foreigner holds a short-term or a long-term permit (see above indicator n°26). Resident permit holders cannot work in the public sector (except contract workers, researchers and academics) nor in the private-sector professions that have special regulations on French nationality or French diplomas.

However, resident permit holders do not have to ask for a work permit to be allowed to work. The situation of employment cannot be put forward to prevent them from working.

**Scores:**

**General score: -1**

**Algerians: -1**

**Tunisians: -1**

**Italians: 0**

**28. Unemployment is a reason for revoking or refusing to renew the foreigner's permit to stay**

The resident permit is automatically renewable; thus, the state services cannot put forward the foreigner's unemployment to refuse the renewal and cannot ask him/her to provide payrolls or other evidence of resources.

The permit of long-term residence cannot be withdrawn for unemployment.

**Scores:**

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians: 1**

## b) Welfare state access

### *- Illegal immigrants*

#### **29. Access to social security, social assistance and healthcare for illegal immigrants**

Since a law in 1993, the legality of the stay is a condition to access most social benefits. This rule already existed through different regulations, but it was generalised and entered in the legislation in 1993. However, illegal immigrants have the right to a small number of social benefits.

Regarding healthcare assistance, illegal immigrants are entitled to a “State medical aid” (under conditions of resources), if they have their habitual residence in France (which excludes an occasional presence in France). All kinds of medical care in hospitals are supported by the State. Medical care provided outside hospitals is supported only if the foreigner has lived in France for 3 years. This is essentially why this special healthcare assistance system is less favourable than the one legal immigrants are entitled to. It must also be noted that immigrants who lose their right to a permit to stay are still entitled to sickness and maternity benefits during 4 years.

Illegal immigrants are also entitled to other social benefits. First, they can access child social assistance, which covers different types of assistance: aid for first needs (such as food and accommodation in an hostel, for example); monthly benefits; family social workers’ assistance (intervening at home); accommodation in a maternity centre receiving pregnant mothers or single mothers with a child under 3 years old. In practice, state services tend to often restrict such rights on different grounds (that do not have a legal basis). For example, they may put forward the possibility of a fostering of the child, arguing that the illegal stay is prejudicial to the child’s interests, which can dissuade the foreigner from requesting such assistance. In addition, the accommodation in a maternity centre goes together with the support to the implementation of a social insertion project. Thus state services may put forward the absence of insertion projects to refuse to accommodate illegal immigrant mothers.

Illegal immigrants can also benefit from urgent housing schemes. The decision to grant this kind of support results from a discretionary decision of the Prefect. Consequently, the decisions are often negative for illegal immigrants, all the more so as a great part of the structures are also aimed at supporting the social integration of the beneficiaries.

Illegal immigrants can also have access to centres for maternal and child protection, which provide medical and psychological care to parents and children under 6 years old.

Illegal immigrants can benefit, as other workers, from benefits related to industrial injuries and professional illness.

Lastly, illegal immigrants are entitled to a specific old age benefit if they have been living continuously in France for at least 15 years before the age of 70.

#### **Scores:**

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians: 1**

*- Short-term permits*

**30. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support**
- b. minimum housing support**
- c. family and child benefits**
- d. assistance in case of illness**
- e. pregnancy and maternity care**
- f. long-term care**

In the field of social security and assistance, the principle of equal treatment between foreigners and nationals is largely recognized by the French legislation. This was implemented gradually and influenced by the jurisprudence of the Council of the State and the Constitutional Council (the two higher Courts in France). Foreigners and nationals have today an equal access to social rights and benefits, in the various fields of healthcare, maternity, family and child benefits, housing support, and unemployment benefits.

To be entitled to such rights, the foreigner has to hold a temporary permit to stay (or a resident permit), and, with regard to unemployment benefits, a permit allowing the holder to work (employment-related permits or “private and family life” permits).

The only exception concerns the minimum income support and more specifically the “RMI” (“Revenu Minimum d’Insertion”, i.e. minimum insertion income). The RMI is directed to potentially working persons (and not students or retirees), who are not entitled to unemployment benefits<sup>21</sup> or others means of support. To be entitled to this benefit, the foreigner has to hold a permit allowing to work. A special provision applies to short-term permits holders, who have to hold permits allowing to work for 5 years. This limitation does not apply to EU citizens, who only have to live in France for 3 months and to fulfil the legal conditions required to have the right to stay in France.

Regarding old foreigners, they have the same right as nationals to benefit from minimum income support since 1998 (in their case this is not the “RMI” but the “minimum vieillesse”, i.e the old age benefit).

**Score:**

**General score: 0**

**Algerians: 0**

**Tunisians: 0**

**Italians: 1**

*- Long-term resident permits*

**34. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support**
- b. minimum housing support**
- c. family and child benefits**
- d. assistance in case of illness**
- e. pregnancy and maternity care**
- f. long-term care**

Whether they have a short-term or a long-term permit, the situation of foreigners is the same

<sup>21</sup> Because they have not worked enough and hence they have not paid enough contributions to the Social Security.

regarding the quasi-totality of social security and social assistance benefits.

The difference concerns the RMI (minimum income support): there is no condition of time of residence for resident-permit holders.

**Scores:**

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians: 1**

## 4. ANTI-DISCRIMINATION RIGHTS

### 32. Legislation against ethnic discriminations

The anti-racist legislation really appeared in France with the law of July 1972. This law was based on a principle recognized in the French Declaration of Human Rights of 1789 and the Constitutions of 1946 and 1958: the principle of equal rights for all human beings, without distinction of race, origin and religion. For a long time, only racist words or documents could be punished, in application of the law of 1881 on the freedom of the press and the decree of 1939 directed to anti-Semitic campaigns. The law of 1972 went further by penalizing different types of ethnic discriminations (including actions) because of race/origin: provocation to discrimination, hatred and violence through words, documents, images; defamation; insult; refusal of a public service employee to grant a right to a person or an organization; refusal to provide a good or a service; discriminatory hiring and dismissal. The two latter discriminatory actions also included the criteria of gender and family situation. The law also created a right for associations fighting against racism to take civil action.

Other laws completed those arrangements, such the “Auroux laws” of 1982 that prohibited sanctions or dismissals of employees because of their origin and the law of 1983 that forbade all discriminations among civil servants, notably those based on ethnic criteria. Since 1982, plaintiffs can refer discrimination cases to industrial tribunals (“Conseils des Prud’hommes”, ie the French civil tribunals specialized in labour relations).

The “Gayssot law” of 1990 completed the arrangement of 1972, especially by creating complementary sanctions such as the loss of civic rights or the publication of the sentence. In the 1990s, the sentences for racist offences were strengthened.

The debate about racial discriminations was launched again at the end of the 1990s, following the public positions taken by the left-wing government and the publication of an alarming report by the “Haut Conseil à l’Intégration” (High Committee of Integration). Since this date, the fight against discriminations has recurrently been a priority on the political agenda, whatever the political majority in power, and several plans of actions have been implemented, especially in the field of employment.

The legislation has also changed. The European Union played a great role in these legislative developments, with its directives about sexual discriminations in December 1997 and ethnic discriminations in June 2000. The latter had to be adapted in national legislations before July 2003. In France, three laws (November 2001, January 2002 and December 2004) aimed at reinforcing the fight against discriminations based on race but also other criteria (gender, etc.) in different fields. The law of 2001 concerns the sector of employment, but applies to the private sector only (excluding the public one). It extended to all the labour life the prohibition of discriminations: not only hiring, dismissal or sanctions but also salaries, training, promotion, etc. It also introduced the “physical appearance” and the “name” as criteria of discrimination. Taking into account the European directive, it mentioned the idea of “indirect discrimination” without defining it. Then the reference to the European definition

will be probably used: it is defined as the fact that a criterion or a practice apparently neutral triggers a significant disadvantage for a group of persons. Following the European texts, the law also changed the regime of evidence. Before that law, the victim had to provide the proofs of the discriminatory behaviour. The new procedure is more balanced: the victim has to bring all factual elements that seem to indicate a discrimination, the other side having to prove that its action is based on objective elements irrelevant to discrimination. This new regime only applies to civil courts and can favour in the future an increasing recourse to civil courts for discrimination cases instead of criminal ones, which has been much prevalent until now. The law of 2001 also set up a protection of plaintiffs and witnesses against dismissals connected to their judicial action and gave to trade unions the right to bring a case before the courts (except if the victim disapproves it). The law of 2002 applied the same principles (inclusion of indirect discrimination, new regime of evidence) in the field of housing. In December 2004, another law extended such a policy to a great number of sectors: health, social security, education, access and supply of goods and services, membership in a trade union/professional organization, self-employment.

In March 2006, a law on equal rights recognized the practice of “testing” (employed by associations to test the practices of a company/a person in order to prove the existence of discriminations) as a valid element for a judicial action. It also gave to the HALDE, the new public authority created in 2005 to fight against discrimination (see indicator n°34) the possibility to launch judicial actions.

**Score: 1**

### **33. Types of sanction in case of racially discriminatory hiring**

The sentences for discriminatory hiring based on ethnic criteria have been strengthened several times since the first law of 1972, in the 1990s and recently in 2004. Main sanctions are quite severe: a prison sentence of 3 years and a fine of 45 000 euros for a natural person and 225 000 euros for a body corporate. Complementary sanctions also exist: loss of civic rights, civil rights (fulfilling a judicial function...) and family rights (guardianship, except of someone's own children), publication of the sentence, impossibility of exerting a social or professional activity or a public function, and, for a body corporate, closing of the company/organization for 5 years or definitively, exclusion of public markets, etc.

The system of sanctions is then quite strict and complete. However, in practice, heavy sanctions have not been often used so far. Courts tend to limit the sentences to fines, of a quite low level (often not more than 1 500 euro according to the GELD: GELD, 2000). Sanctions related to the responsibility of body corporate (quite disuasive with regard to complementary sentences) are rarely used. This may change in the future, under the impulse of the EU and, at the national level, of the HALDE (see next indicator).

It must also be said that it is very difficult to determine with certitude the existence of discrimination or not (except in case there are concrete proofs, e.g. documents...)

**Score: 1**

### **34 Public structures dealing with ethnic discriminations**

The development of anti-discrimination policies since 1998 has led to institutional changes in this field.

A first arrangement was set up in 1999, with the creation of a new public body: the GED (“Groupe d’Etude des Discriminations”, i.e. Group for research on Discriminations). It first had a mission of analysis and dissemination of expertise. In 2000, it became the GELD (Groupe d’Etudes et de Lutte contre les Discriminations, i.e. Group for research on and fight against discriminations) as it was given a new responsibility in terms of actions: from 2001, it had to manage the new phone number “114” that persons could call to complain about or bear witness to discriminatory practices. If relevant, the cases were transmitted by the GELD to the CODAC (“Commissions Départementales d’Accès à la Citoyenneté, i.e. Local

Commissions for the access to Citizenship) in order to be treated.

The limits of the system were underlined. While it certainly contributed to better understand the phenomena of discriminations and increase the awareness of actors about such issues, the means of the GELD and of the CODAC were too limited. Their powers of investigation and intervention were not sufficient. That is why only a small number of cases were treated and the inquiries that were conducted rarely resulted in judicial actions.

Such problems led to the creation of a new specific institution, officially set up in 2005: the HALDE (“Haute Autorité de Lutte contre les Discriminations et pour l’Egalité”, i.e. High Authority for the fight against discriminations and for equality). This independent public authority does not deal only with ethnic discriminations but also discriminations based on gender, age, family situation, handicap, sexual orientation, etc. The HALDE has important powers of inquiry. The cases are treated either through mediation or judicial procedures. About half of the cases received by the HALDE concerns the field of employment and 37 % are related to ethnic discriminations. The HALDE helps victims to collect proofs and can also refer itself cases to courts. In addition to this mission of support to victims, the HALDE conducts research, informs actors, disseminates good practices and sets up trainings about discrimination. It also makes policy proposals to the government.

**Score: 1**

## 5. POLITICAL RIGHTS

### 35. Right to vote in local elections

The right to vote in local elections for foreigners has been much discussed in France from the 1970s but has never been recognized (apart from EU citizens). At the beginning of the 2000s, several bills were proposed or even discussed at the National Assembly but were not accepted. The public opinion has changed over time about this issue, even if it remains quite divided: in October 2005, 63 % of French people are in favour of the vote in local elections of non-EU foreigners who have been living in France for 10 years (IFOP, 2005).

The only exception concerns EU citizens, who can vote in local elections, since the Maastricht Treaty of 1992 instituting a European citizenship. This required a constitutional modification.

**Score:**

**General score: -1**

**Algerians: -1**

**Tunisians: -1**

**Italians: 1**

### 36. Right to stand for local elections

EU citizens also have the right to stand for local elections but cannot be mayor, deputy-mayor or member of the electoral college that elects the Senators.

**Score:**

**General score: -1**

**Algerians: -1**

**Tunisians: -1**

**Italians: 0**

## **II – CULTURAL/GROUP RIGHTS**

### **1. CULTURAL REQUIREMENTS TO ACCESS THE COMMUNITY**

Recent policies have emphasized the cultural aspects of immigrants' integration. In 2003, the "contrat d'accueil et d'intégration" (CAI, i.e the "welcome and integration contract") was created and was then gradually spread in an increasing number of regions. The CAI was generalised in the whole territory in 2006, after the creation in 2005 of a new public agency, the "ANAEEM" (Agence Nationale d'Accueil des Etrangers et des Migrations, ie National Agency for welcoming immigrants and for migrations), responsible for their management. The signature of CAI was made compulsory by the last law about immigration, in July 2006. All the foreigners who are granted a first permit to stay in France have to sign such contracts, which link them individually with the State. Foreigners educated in French secondary schools abroad for at least 3 years do not have the obligation to sign the contract. Students, seasonal workers and workers sent on mission in France are not concerned by the CAI since, in principle, they do not intend to settle durably in France. Through this contract, the foreigner undertakes to respect the laws and the values of the Republic and to follow civic courses, and the State is committed to favour his/her knowledge of the French language and his/her access to some basic rights. The CAI allows the foreigner to benefit from free services, mainly a language training adapted to his/her needs and recognized by a diploma. The foreigner also benefits from a one-day training about "the life in France", information about the access to employment and to professional training, and, if needed, an individualised social support. He/she must follow a one-day civic training, presenting the fundamental rights, principles and values of the French Republic. The creation of the CAI certainly shows the State's commitment to support immigrants' integration by offering them language courses and information. Nevertheless, it is compulsory and its respect is taken into account for the issue/renewal of permits and for the acquisition of naturalization (see indicators 37, 38 and 39), which shows that it also supports an assimilationist view of immigrant's integration in the French society.

#### **37. Cultural requirements for obtaining short-term permits**

There is no cultural requirement related to French language or civic knowledge for obtaining a temporary permit to stay for the first time. The law only states that short-term permits cannot be issued to foreigners living as polygamous in France.

However, to renew this permit, the state services can take into account the non-respect by the foreigner of the provisions of the CAI (the welcome and integration contract).

As for Italians, this does not concern them since they can stay in France without any permit.

#### **Scores:**

**General score: 0**

**Algerians: 0**

**Tunisians: 0**

**Italians: 1**

#### **38. Cultural requirements for obtaining long-term resident permits**

This is the law of 2003 that introduced cultural requirements for obtaining the resident permit. It subordinates the issue of the permit to a condition of "republican integration in the French society", which is especially based on the knowledge of the French language and the respect for the principles ruling the French Republic. This is notably assessed through an individual interview with the applicant. The condition related to the French language does not apply to foreigners aged 65 and over. To assess the foreigner's integration, the state

services take into account the respect of the CAI or not.

Such cultural requirements apply to most categories of foreigners, even those who can access the status after a shorter time of residence in France, such as parents of French minors, spouses of nationals and family members of resident permit holders.

However, while they must sign, as other immigrants, a CAI when arriving in France, the condition of “republican integration” does not concern Algerian and Tunisian immigrants applying for a resident permit. Indeed, the bilateral agreements between France and both countries have not been revised to take into account this new requirement.

As for Italians, they can remain in France without any permit, so the cultural requirements do not concern them. With regard to their right to a permanent residence, the legislation does not mention any other condition than the 5-year residence in France and the absence of threat to public order.

**Scores:**

**General score: 1**

**Algerians: 1**

**Tunisians: 1**

**Italians: 1**

**39. Cultural requirements for naturalization**

The “assimilation to the French community” is a condition for naturalization. The term of “assimilation” has almost disappeared from the official and political discourses over the last twenty years. The High Committee for Integration, in particular, has criticized this notion, putting forward the one of “integration”. But the term was not suppressed from the legislation related to the acquisition of nationality.

The knowledge of the French language is a key element that is considered. It is assessed by taking into account the level of education and the social background of the applicant as well as his/her possibilities of quick progress connected to a favourable environment (children educated in French schools, daily environment, French courses attendance, etc.). The way of life of the applicant is also considered to see if it contradicts or not the core values of the French society. Since the law of 2003, a basic civic knowledge is also expected, as the law mentioned the knowledge of the “rights and duties given by the French nationality”. In practice, all these requirements are examined through an individual interview with the applicant. A report on this assimilation is then written. When it does not provide enough information, a social inquiry can be carried out.

The practice of polygamy in France is always a ground for rejecting the application. The fact of advocating values coming under Islamic fundamentalism or showing behaviours that can be interpreted in that way also constitute reasons for refusing the application. A circular, in 2000, also states that the state services have to mention the kind of Islamic headscarf Muslim applicants wear in order to determine if it is among those revealing the belonging to a fundamentalist Islam. During social inquiries, the behaviour of the applicant towards his children and wife is considered to see if it detracts the values of the French society, notably the principle of equality (especially gender equality). The fact of living cut off from the society is also a ground for rejecting the application. The actual practices of the Prefectures are quite variable in the assessment of such cultural requirements.

Since the welcome and integration contract was set up, its respect by the applicant represents a significant criterion that is taken into account.

**Scores:**

**General score: -1**

**Algerians: -1**

**Tunisians: -1**

**Italians: -1**

## 2. LANGUAGE PROGRAMS

### 40. Host-country language programs for immigrant adults

Since 2003, language programs for immigrants have been much developed in relation to the creation and generalization of the CAI. In the framework of the CAI, the foreigner can attend, if needed, language courses. These courses are completely free and essentially concern newly arrived immigrants (since the CAI is especially directed to them).

**Score: 1**

### 41. Host-country language programs for immigrant children

The first public structures for immigrant pupils recently arrived in France and not having a sufficient knowledge of the French language were set up in the 1970s. They have been kept afterwards. Such structures are specific classes, located inside ordinary schools: the “classes of initiation” (CLIN) in primary schools and the “classes of adaptation” (CLA) in secondary schools. They are managed by specific public institutions, called the “CASNAV” (Centres for the education of recently arrived immigrant pupils and traveller children). There is one CASNAV in most regional educational districts.

These classes gather pupils of all nationalities. They are aimed at favouring the integration of such pupils into the French school system by an intensive learning of the French language. The priority is given to French (18 hours a week), but pupils also follow other courses, such as Mathematics, Sciences, History and Geography, etc.

These classes are conceived as a transitional step, limited in time: in principle, pupils must only stay one year in the class. The integration into the ordinary classes constitutes a major objective during the year: according to their progress in French language, pupils attend a greater and greater number of courses and activities into ordinary classes.

Other arrangements also exist, especially in the areas where the number of targeted pupils is low (or to complete the system of CLIN and CLA after the pupils have left them): special modules of French language are set up a few hours a week, the pupils being in ordinary classes the rest of the week. In secondary education, specific classes (CLA-NSA) receive immigrant pupils who were not (or just a little) educated in their country of origin.

These specific arrangements globally concern a very high proportion of newly arrived immigrant pupils, but they are not always sufficient. In this matter, there are great gaps between local areas. In some regions, between only 30 and 60 % of the children in primary education are supported. In the Lyon region, more than 80% of the 2774 newly arrived migrant pupils were supported in 2004-2005 (86,5 % in primary education and 81,5 % in secondary education): most of them are in CLIN and CLA, others are in ordinary classes but benefit from a specific support few hours a week. While this constitutes a high proportion of the targeted population, there are still a number of pupils directly integrated into ordinary classes without any support.

Besides the insufficient number of structures in some areas, the system has often been questioned in other matters. First, a recent survey underlines the frequent practice of a closed functioning of such classes, despite the official principles asserted (Schiff, 2003). In that matter, there are great variations from one school to another, depending especially on the relationships between the teacher of the CLIN/CLA and the teachers of ordinary classes. In addition, the number of CLIN/CLA teachers really specialized in teaching to these pupils is too low compared to the needs. Lastly, the reluctances of ordinary teachers towards teaching to such pupils may be strong: they are generally not trained in this field and have difficulties to help them individually while having to manage the whole class at the same time. Then newly arrived immigrant pupils are often little supported, if not left alone, when they

integrate ordinary classes.

**Score: 1**

### 3. SCHOOLING

#### **42. Possibility of public funding for Muslim private owned schools (full-time schools)**

In France, the recognition of the freedom of education and of the public funding of private-owned schools is deeply connected to the history of the relations between the State and the Catholic Church. While the possibility to create private schools was recognized through successive laws in the mid-19<sup>th</sup> century, the public funding of such schools was forbidden in 1886 (after having been allowed in 1850 for investment expenses), as a result of the anticlerical policy implemented by the Third Republic. It is only after the World War II that the situation changed, in relation to the appeasement of the relations between the State and the Catholic Church.

The current arrangement essentially stems from the “Debré law” of 1959 (from the name of the Prime Minister of the period). This law created a unified education public service, comprising public schools and a part of private schools as well. It allowed a partial public funding of the private schools that sign a “contract” with the State. There are two types of contracts.

Schools with a “contract of association” must respect the same rules and curricula as the public system. They employ teachers as public employees, who have the same type of diplomas as public schools’ teachers. The headmaster has a certain degree of freedom in the appointment of teachers, but this choice must be validated by a special public commission. The State finances the totality of teachers’ salaries and a part of the operating expenses are funded by local authorities. Teachers must respect the specific character of the school they belong to. To be created, such schools must correspond to a “recognized school need”: the local education authorities assess it by taking account the actual demands of families and/or the specific aspect of the school.

The “simple contract” is only for primary or specialized schools. It is less demanding. This status does not require a “recognized school need”. Teachers are recruited freely and are not public employees. The organization of education is more flexible: schools have to prepare to the official exams, but they only have to organize fundamental subjects “in reference to” the official hours (with a margin of 20 %) and curriculum. The financial advantages are more limited: the State finances the most part of teachers’ salaries, but, contrary to schools with an association contract, the public financing of the schools’ material operating is less important and is not compulsory for local authorities.

In both cases, schools must fulfil conditions related to security and hygiene as well as to education, which must not be contrary to morality, laws and Constitution. They also have to welcome all publics, without distinction according to origin, opinion or religious affiliation. They must respect pupils’ freedom of conscience; that is why religious courses they propose cannot be compulsory.

Public funding is possible for all private-owned schools that fulfil the conditions required and has been operating for 5 years. The system was created in the beginning to answer to the needs of Catholics, but can be used by religious and cultural minority groups since there is no distinction according to religion or origin in the legislation. Nevertheless, there is a condition of nationality: to be paid by the State, private schools’ teachers must be EU or EEA citizens, which constitutes an important legal limitation.

The quasi-totality of private schools has a contract with the State. They enrol more than 2 million pupils (17 % of the school population: 13 % in primary education and 21 % in

secondary one). Most of them have a contract of association, which is the most advantageous financially.

**Score: 1**

**43. (if there is a possibility) Number of public-funded Muslim schools (full-time schools)**

Despite the possibility of public funding, there is no public-funded Muslim school in the Lyon region and in metropolitan France today. The only one is a high school which is located in a French overseas territory, in the Réunion island, and which has a contract of association with the State since 1990. The main reason is that their development is very recent and any private school must have been operating for 5 years to be publicly subsidized.

In metropolitan France, Muslim schools are totally privately funded so far. They are also very rare. This is linked to the fact that Islam is not present for such a long time in France compared to other religions. Another reason is that Muslim associations must have buildings or build them, which raises significant financial problems all the more so as the Muslim communities in France do not have significant economic resources. It must also be said that the majority of Muslims living in France are, as the general public opinion is, attached to the public school system. Private education is little developed in France. That is why the potential school population of Muslim schools, although it will certainly grow in the coming years, will probably remain relatively limited.

The first Muslim private school, called "La Réussite" (the "Success"), opened in 2001 at Aubervilliers (a city of the Paris suburbs). It is a lower secondary school, enrolling 80 pupils in 2004-2005. This school should sign very soon a contract of association with the State. The second Muslim school is a high school in Lille, called "Averroès". It opened in 2003 and enrolls 50 pupils in 2004-2005. Several other projects have emerged over the two last years: a lower secondary school in Marseille, another one in Toulouse, a primary school in Clermont-Ferrand and another one in Pierrefitte (a city in Paris suburbs of external belt).

In the Lyon urban area, a project of a Muslim secondary school in Décines (which proposed to receive 150 pupils, which would make it the greatest Muslim school in France) was launched in 2006. But, it was rejected by the local school authorities, which put forward sanitary reasons (presence of a gas pipe and of pollution traces close to the building) and finally also presented some of the project managers as "fundamentalist". This triggered an important conflict in September and October 2006 with the local education authorities, two demonstrations gathering Muslim associations and families being organized in October. The "Conseil Supérieur de l'Education" (ie the National Council of Education) finally gave a favourable opinion about the project and the school opened its doors in early March 2007. Only about 20 pupils go to this school so far because it opened during the school year. The school can receive 17 classes eventually.

The recent development of Muslim schools in France is partly based on a movement of "catching up" compared to other religions, which are long established in France and so have a more developed network of schools, worship places and other religious/cultural institutions. But it is maybe partly connected to the law of March 2004 that forbade the wearing of religious signs in public schools (this does not apply to private-owned schools).

**Score: -1**

**44. Possibility of public funding for other minority group private-owned schools (full-time schools)**

The public funding arrangements described above is available for all types of private-owned schools once they fulfil the legal conditions.

**Score: 1**

**45. (if there is a possibility) Number of public-funded minority group schools (full-time schools)**

Overall, the private education system is traditionally low in France due to the attachment to

the public school system and its overwhelming predominance. This also goes together with a traditional reluctance towards any institutionalization of “separated” communities, through specific schools or other means.

However, the situation varies from one religious/cultural group to another. The quasi-totality of public-funded private schools is connected to religions long-established in France and not to minority groups related to immigration.

Because of the historical importance of Catholicism in France, the great majority (80 %) of public-funded private-owned schools are Catholic ones. However, a part of them do not have a strong religious identity, apart from the possibility for pupils to attend religious education courses a few hours a week. Research in this area shows that the religious aspect was very often secondary in the parents' choice of such schools, which especially results from school achievement concerns. Some of them enrol 10 % of Muslim pupils. Religious motives are sometimes present in the case of Muslim families, parents preferring that their child receives some religious notions, even Christian, rather than not at all.

This profile is not true regarding Jewish schools, most of them having a strong denominational dimension (with an important religious education, a respect of religious festivals and traditions) and generally welcoming only Jewish pupils. Compared to the number of Jews in France, the number of Jewish schools is quite important: 256 schools, enrolling about 30 000 pupils, that is 30 % of young Jews. The great majority of Jewish schools are public-funded. In the Lyon urban area, there are 3 public-funded Jewish schools: 2 schools (from the nursery to the secondary education) in Villeurbanne gathering respectively 950 and 500 pupils and a technological school in the 8<sup>th</sup> “arrondissement” of Lyon.

Regarding Protestant schools, there are only 4 public-funded schools in France (not in Lyon) belonging to the Lutheran-Reformed tradition. The traditional links between Protestants and public education (some great Protestant figures having been at the origin of the creation of the public school system in the 1880s) can explain this quasi-absence. A few Evangelist schools also exist in France but have not signed a contract with the State because of their little size and their willingness to keep their strong religious identity.

As for schools for minority groups related to immigration, they are very rare in France and not public-funded. In the Lyon urban area, a private Armenian primary school, not publicly-aided, opened in 1988.

#### **Score:-1**

#### **46. Cultural/language courses for pupils of minority groups inside public schools**

Specific classes for pupils of minority groups, aiming at teaching them their culture and language of origin, the “ELCO”, were set up in the early 1970s. They have been kept afterwards. They are optional for these pupils and organized, in principle, out of the school time (after 4:30 pm or between 12 and 2 pm) but inside public schools.

Teachers of such classes are foreigners sent and paid by the foreign country in the framework of bilateral agreements between France and other countries. The curricula are defined by the foreign country, but they have to comply with the general principles of the French public school system. Teachers are inspected by the French education authorities. Currently, 8 countries are concerned by such a system: Spain, Italy, Portugal, Algeria, Morocco, Tunisia, Turkey and former-Yugoslavia. At the national level, the ELCO represents about 70 000 pupils in 2001 and 1 400 foreign teachers.

The number of pupils registered in the ELCO are the following in the Rhône<sup>22</sup>:

Primary education:

<sup>22</sup> i.e. the local geographical division Lyon belongs to.

- Algeria: 1 091
- Italy: 402
- Tunisia: 295

Secondary education:

- Italy: 82
- Tunisia: 72. (there is no ELCO for Algerian pupils at the secondary level).

In fact, the teaching of Arabic is mainly carried out by associations, especially religious ones. This results partly from the lack of structures in the public school system. However, it must also be said that the ELCO are not attractive for some of the families of North-African origin, for several different reasons: some parents prefer that their children learn the dialectal languages rather than the literal one (which is taught in the ELCO); others wish that their children learn Arabic mainly for religious goals and hence prefer other structures combining the teaching of Arabic with an Islamic religious education. As for Italian pupils, the situation is different since this language is also much taught as a modern language in secondary education.

The objectives of the ELCO were quite ambivalent in the beginning. Such a scheme was partly in line with intercultural teaching practices, which were promoted for a short period in the 1970s. At that time, one of the arguments was also that the insufficient knowledge of the mother tongue triggered difficulties in the learning of the French language too. However, the ELCO also aimed, at this period, at facilitating the potential return of the children to their country of origin and hence did not go together with an objective of promotion of cultural diversity. In fact, the actual objectives of the ELCO have never been precisely defined and their soundness has always been questioned. Today, a lot of actors, especially state actors, consider that the promotion of cultures of origin does not make sense for children destined to remain in France and may even go against their integration into the French society by withdrawing them into their specific communities. Such classes are also often considered discriminating and closed as they are only reserved to pupils of minority groups. The Stasi report on the principle of "laïcité" denounced the system, stressing that "in a background of right to difference, there has been a shift towards a duty of belonging". A gradual suppression of the ELCO is currently considered, even if it is difficult to achieve as the ELCO are based on bilateral agreements with foreign countries who do not wish this suppression. The objective today is rather to favour a diversification of the languages taught as modern languages at school. The development of Arabic, Italian or Turkish as first learnt modern languages is envisaged and is experimented in some local areas. It is the economic asset and the value of exchange linked to these languages, rather than identity needs, that are emphasized then.

**Score: 1**

#### **47. Change in public schools' curriculum to take into account the cultural diversity of society**

The French current school curricula do not put forward the image of a multicultural France. The cultural diversity that is emphasized through the curricula is that of the world rather than the diversity of the French society itself. The global dimension is significant in the curricula, especially in Geography and in secondary education (where human sciences are much more developed than in primary schools). Geography lessons comprise the study of some other countries and parts of the world, hence emphasizing the global cultural diversity. In History, the curricula focus more on France, Europe and the Western World, but a place is also granted to the study of different civilizations at certain historical periods (for example the Muslim civilization at the 12<sup>th</sup> century). Pupils also study colonization and decolonization and the evolution of the Third World after 1945. This openness to other cultures is also carried out through the teaching of modern languages, pupils having to study two of them in

secondary education. Today, English is overwhelmingly dominant as the modern language n°1 and German, Italian and Spanish as modern languages n°2. But a diversification of modern languages at school is currently envisaged and experimented in some local areas. As for the cultural diversity of France itself, it does not constitute a significant line in the school curricula, despite important debates about its place within the school system over the last two decades. The history of immigration is not dealt with in a specific section in the History curriculum but merely mentioned as a fact among others in chapters devoted to the evolution of the French society in the 20<sup>th</sup> century. In the geography curriculum, it is especially the France's regional diversity that is studied more in detail. There is no detailed and specific parts concerning the minority cultures currently present in France (see also indicator n°48 for the place of religious diversity in the school curricula). In 2004, a new cultural institution, the "Cité Nationale de l'histoire de l'immigration" (ie the National Centre of immigration history) was created in order to promote the history and the memories of immigration. It will become a national Museum that should open in 2007 in Paris. One of its mission is to support education projects in this field, in relation to school actors. The creation of such an institution represents a significant step in the way immigration is considered in France. The "Cité" emphasizes the cultural contribution of immigration to the development of France's social and cultural life. Nevertheless, as long as cultural diversity is not recognized as a significant dimension of education in the French school system, especially through modifications of the curricula in this direction, the impact of this institution will probably remain limited. The French curricula remain in line with the traditional French political pattern, which rejects the idea of cultural minorities and rather emphasizes the values – essentially political ones ("laïcité", equality and individual rights) – which are supposed to be shared by all people living in France.

**Score: -1**

#### 4. RELIGION

##### 48. Religious education in public schools

The French public school system is completely secular since the laws of the 1880s, which adopted under the Third Republic and enforced the principle of "laïcité" in public education (this term cannot be translated in other languages and roughly means the religious neutrality of the school). Throughout the 19<sup>th</sup> century, one of the main political struggles opposed, basically, the Republicans to the Catholics, who mostly favoured the monarchist principles and the influence of the Catholic Church on the French society and public sphere. This frontal opposition between Catholics and Republicans especially took place in the battlefield of education. The creation of a public, free, secular and compulsory primary school in the 1880s aimed at implanting republican principles and teaching them to children. During this period, the public school system was asked to foster a civic and national identity disconnected from traditional and primary affiliations (religion, but also family, social class, local identity etc...). Religious education was banned from the school space and replaced by a moral and civic education, in which the references to Catholicism and other religions were almost absent. There was only a mention of "the duties towards God" in the part of the curriculum dedicated to the moral duties of the child, but this was officially suppressed in 1923.

This republican tradition of a completely secular public education has been maintained afterwards. Religions are only present today in the school curriculum through a historical and cultural teaching approach, which essentially takes place within History lessons. All forms of religious education strictly speaking remain outside the public school space.

Over the last two decades, the meaning of the principle of “laïcité” has been a controversial question in France, especially in relation to the issues of cultural diversity and of the place of Islam in the French society. Some actors have claimed for a renewed understanding of the “laïcité”, by better taking into account France’s religious diversity, including through public schools’ curricula. They have asked for a greater place granted to a cultural approach of religions at school, some of them even claiming for a specific subject dedicated to that. Following these discussions, the place granted to a cultural learning about religions in the curricula was slightly extended, notably the parts about Islam in the History curriculum. However, the presentation of France’s religious diversity remains very limited in the current school curricula. It is mainly the historical past of religions that is studied and not their current forms and expressions within the French society. For example, Islam essentially figures as a specific study theme in the History curriculum at certain historical periods (at its birth and in the Middle-Ages).

**Score: 0**

#### **49. Islamic religious signs in the public sector**

While the freedom of opinion is recognized for public employees in the French legislation, there is no specification in the law itself concerning the expression of their religious beliefs. The religious neutrality of the public service is a constant principle since the law of 1905 instituting the secularism of the State, but its compatibility with the exteriorisation of religious beliefs was not always considered in the same way. The jurisprudence of the Council of the State on this point has changed through time. In a first time, it was rather liberal. For example, the Council of the State was asked in 1972 to give its opinion about the reintegration as a civil servant of a secondary education teacher who became a clergyman when he was on leave. In its advice on September 21 1972, the Council notably stated that there is no incompatibility, in principle, between the public service and the exteriorisation of public employees’ religious beliefs.

But in the more recent period, the norm of neutrality was interpreted more restrictively, rather imposing obligations to public employees. The context has changed as the debates have focused on the question of Islam and its integration into the French society. The principle of “laïcité” has been much discussed for two decades and has been deeply connected to the issue of Islam.

In the advice “Martiaux” of May 3 2000, the Council of the State had to pronounce itself about the dismissal of a Muslim temporary school employee who wore the Islamic headscarf during her service. The Council asserted that the principle of secularism led to forbid that all public employees (and not only those of schools) demonstrate their religious beliefs. This advice did not distinguish between religious signs and did not introduce differences according to the type of users public-sector employees address. Such an interpretation has not changed afterwards, despite the different directions that a decision of the European Court of Human Rights in February 15 2001 put forward. In this decision, the European Court approved the dismissal of a Swiss primary education teacher, who wore the Islamic headscarf at school, but it justified its position by putting forward the fact that young children were concerned. This decision is far away from the French general prohibition of religious signs in the public service, since it paves the way to a case-by-case appreciation.

**Score: -1**

#### **50. Islamic religious signs in the private sector**

In the private sector, there is no specific public measure related to religious signs or to the wearing of the headscarf. Hence, practices of toleration or rejection of the Islamic headscarf in the private sector vary from one firm to another.

Two general principles of the labour legislation are relevant for this issue. First, the Labour Code prohibits discrimination, notably on religious grounds. Since 1992, it also specifies that

the restrictions on the individual freedoms existing in the firm are justified only if they are relevant to the nature of the task to be carried out and proportional to the goal to be achieved. So when a firm restricts employees' religious expressions, it is up to the judges to evaluate whether this double criterion is met, on a case-by-case basis, and whether the behaviour of the firm does not reveal an attitude of rejection and of discrimination.

There is no obvious direction in the jurisprudence regarding the wearing of the Islamic headscarf at work. For example, two courts judged very differently in 2002 and 2004 two similar cases of dismissals based on the wearing of the headscarf and involving two women who worked in the same telemarketing company, at Paris and Lyon. Through the jurisprudence, the wearing of the headscarf does not justify in itself a dismissal. The judges take into consideration various elements related to the nature of the task (relations with customers or not for example), the behaviour of the employee (proselyte attitude or not, will of compromise or not, wearing of the headscarf before or after the hiring, etc.) and the social climate in the firm. Naturally, this type of conflicts is also often solved in a positive way, through local compromises within certain firms and certain companies' departments.

In some big companies, especially the industrial ones that employ a great part of immigrants and people of foreign origin, the management appears quite open towards the practice of Islam in general and the wearing of the Islamic headscarf in particular. A research conducted in a PSA Peugeot Citroën site of the Paris region (Poissy) shows that all types of Islamic religious signs (headscarves, Muslim traditional clothes for men) were commonplace and tolerated inside the firm (Khedimellah, 2005). But the only example is not representative of the global reality, which is characterized by a great diversity of practices and a variable degree of toleration towards Islamic religious signs. It is obvious that in companies that do not employ a great part of Muslims, the management has not the same interest in being open to such religious expressions.

In a general context where the toleration for the Islamic headscarf in the public opinion is quite limited – as the debates on its wearing at school have showed – it is probable that in many firms it is not well accepted. In this respect, the decision to forbid the wearing of the Islamic headscarf by pupils at school in March 2004 may have an impact in other spheres. The application of the 2004 law already confirms what everyone could expect: while it was aimed at all ostentatious religious signs, it has only concerned scarf-wearing young Muslim girls, hence symbolically separating the headscarf from other religious signs and giving it a kind of anti-Republican and anti-secular meaning in itself. Hence the law may reinforce the negative representations of the Islamic headscarf and legitimize its rejection, even if not legally based, in other sectors<sup>23</sup>.

The Commission created in 2003 to work on the application of the principle of "laïcité" recommended the adoption of a law on the issue of the Islamic headscarf in private companies (after a consultation of labour and employers representatives). This law would have allowed the head of the firm to regulate the wearing of religious signs for considerations related to security, contacts with customers and internal social peace. But this proposal was not followed by the government.

**Score: 0**

## **51. Islamic breaks for praying**

There is no public regulation concerning the Islamic breaks for praying at work. According to the Islamic rite, Muslims have to pray 5 times a day at certain precise moments. However, it is allowed to postpone all these prayers and saying them on the evening in case of travel or of very constraining work timetable. Generally speaking, Muslims in France use this

<sup>23</sup> This already occurs since several examples of exclusion of women by public officials on the basis on the wearing of headscarves were commented in the media, such as scarf-wearing pupils' mothers during a school visit, women during a wedding ceremony in the city hall, etc. However, these cases remain rare.

possibility and postpone some of these prayers when they are at the workplace. There is no massive claim today concerning the breaks for praying at work. There had been claims in this field in the past but they rather concerned the only possibility to pray thanks to the installation of prayer rooms (and not to pray at each ritual moment of the day) and the set up of time arrangements during the Ramadan only. These religious claims emerged during the important strikes of 1982-1984 in the industry to protest against lay-offs and to claim for a greater respect for dignity in the labour world. During these strikes, claims in favour of immigrant workers also appeared and some of them concerned the religion. From the 1980s, prayer rooms have been developed in some companies employing a great part of Muslim workers. Specific time arrangements during the Ramadan (with a special break at the moment of the break of the fast) also exist in some of them. As for the daily prayers, they may also be tolerated. The research quoted above (Khedimellah, 2005) reports that in the Poissy site of PSA Peugeot Citroën, ancient Muslim workers take a break for praying as others take ones for drinking a coffee or smoking a cigarette. But it also stresses that younger workers with more precarious status in the firm often hide to their colleagues and supervisors that they take a break for praying because they do not want to "be pointed at". This attitude indicates that even in such a firm that set up special policies to allow the practice of Islam at work, the impression of toleration is not so important.

It must also be said that such favourable arrangements towards Islam are quite specific to a certain type of companies (industrial firms employing many Muslim workers) and are hence rare. In practice, in most firms, Muslims wishing to strictly respect the rules of their religion have to sort things out by their own.

**Score:0**

## **52. Cemeteries and burial according to Islamic rite**

During the French Revolution, cemeteries became a public property, managed by the city authorities. But the religious diversity was respected and concretely shaped the cemeteries, as there were particular spaces, separated by walls or hedges, for each denomination. Under the Third Republic, cemeteries were secularized: the law of November 14 1881, prohibited the separation between religions in cemeteries as well as the creation or extension of denominational cemeteries. The management of cemeteries remains a responsibility of the local authorities. In the same way, the law of 1905, instituting the separation between the State and the Church, prohibited the presence of religious signs on the public parts of cemeteries. Cemeteries are not totally non-religious as the principle is to separate between their public and the private dimensions. That is why the funerals are made according to the religious rituals of the deceased (when he/she or his/her family asks for that) and religious signs are allowed in the private parts of cemeteries (i.e. graves and places of worship).

A burial in France goes together with some transformations of the Muslim ritual. Indeed, according to the Islamic tradition, the body must be buried in the earth itself, which is not possible in France due a legislation making the burial in a coffin compulsory for sanitary reasons. However, the burial into a coffin is relatively tolerated in the Islamic tradition. The most important rule is that the body is directed towards Mecca. This can lead to difficulties in the management of the space. Moreover, there is in France a system of private concession of burial places. This is unknown in Islamic countries and the private concession, if it is long, is expensive. In case of temporary concessions (or abandonment of graves), the remains can be moved, which hurts the Islamic tradition according to which the body is supposed to come definitively back to earth.

The presence of an important Muslim population in France led to some adjustments in this field. It must be noted that a Muslim cemetery was built in 1931 at Bobigny (a city of the Paris region) at the moment of the celebration of the centenary of the colonization. While representing an exemption from the law, it was aimed at paying tribute for the contribution of

Muslim populations to World War I. More importantly, as no text explicitly abstains from reserving some parts of cemeteries to different religions, the set up of “Muslim squares” and other specific places for minority religions became a common practice. This concretely enables to respect the Islamic tradition of the orientation of bodies towards Mecca. A circular of the Home Secretary in 1991, which confirmed a first one of 1975, recommended reserving places for Muslims while at the same time respecting the principle of religious neutrality of cemeteries: specific burial places can be reserved but must not be separated from others by any material mean, such as walls or hedges. There are several “Muslim squares” in the cemeteries of different cities of Lyon urban area, for example in Villeurbanne, Vénissieux or Bron. But certain cities, such as Vaulx-en-Velin, refuse such Muslim squares (Polère, 2002). Despite such developments, the repatriation is still currently a very common practice in Muslim communities. This may be connected to the conditions of burial in France, which, even adapted, required some adaptations of the Islamic rite. More importantly, the place granted to Muslim graves can be, in some local areas, insufficient and some Muslim families cannot afford a private concession. But the practice of repatriation is only the result of religious and family motivations, especially concerning the first generation immigrants. Many of them think important to be buried in a Muslim land, France being still to their eyes a Christian one. This also corresponds to the desire of taking up with his/her native country and his/her family, despite the breach caused by immigration. That is why a lot of Tunisian and Moroccan immigrants subscribe to insurance contracts for that, set up by clubs or specialized clubs from their countries of origin. Algerians use their own financial means, subscribe to individual insurance or are helped by some Islamic associations. This practice may decrease in the future with the new generations of Muslims.

**Score: 0**

### **53. Local public budget for mosques (building and managing)**

The claim for worship places has been a major claim of the Muslim community. This issue has been much discussed over the last years. Islam undergoes a difficult situation in this field, the number of mosques being widely insufficient compared to the needs. In the 1970's, mosques were essentially present in some companies employing a great part of immigrant workers (such as in the automobile industry) or in hostels for immigrant workers. They particularly developed in the 1980s with the important immigration related to family reunion and in the early 1990's. There are 1 685 in France, which is little for what is the second religion in France. The two thirds of them are simple worship rooms, sometimes without any distinctive aspect (little buildings, disused firms, cellars, garages), which can only gather less than 150 persons only. 300 mosques welcome between 150 and 300 people, 34 between 500 and 1000. Only 13 can gather more than 1 000 people, among which the Great Mosque of Lyon.

The law of separation between the State and religions, adopted in 1905, prohibited any public subside to religions. In principle, all religions are equal towards this rule. But, for historical reasons, their actual situations greatly differ. Indeed, the law of 1905 made existing worship places a public property, free granted to religions for the exercise of worship. The great majority of Catholic churches are today a public property and consequently their upkeep is funded by the State. The situation of Islam is completely different due to its later presence in France. It had to build a complete set of mosques without calling on public subsidies.

Some forms of public funding, different from direct subsidizing for building, are possible. Muslim associations can first sign a lease with the city authorities in order to rent a public hall that they use as a worship place. The second type of public aid is a specific lease, through which the municipality rents a building land to an association for a very long term (between 18 and 99 years) with a low rent as the association finances by its own the building and the upkeep. This type of lease has often been used to build Catholic churches and, more

recently, mosques, in a very favourable way since the lease is 99 years and renewable and the rent is nominal (generally 1 euro). The Great Mosque of Lyon, which is one of the only mosques welcoming more than 1 000 people, uses such a system. Since a law in 1961, municipalities can also guarantee the loans taken out by religious associations to build a worship place. Moreover, according to the French law, financing the repair of worship places is not considered as a true subsidy and is then allowed. Municipalities and other state actors can then provide funds for the repair of mosques, as it is currently the case, for example, for the renovation of the Great Mosque of Paris. Lastly, public authorities can finance cultural or social activities of general interest. This possibility is interesting for mosques as they are not only worship places but also gather cultural activities (music, calligraphy, literature, courses of Arabic, museum, libraries...) and social activities (school support for example). The public funding is possible only if such activities are open to all publics and well separated from religious ones. This legal possibility was twisted to finance the most part of the building of a mosque intended to also offer cultural activities at Rennes in the early 1980s. But such a use is exceptional and generally the public authorities only finance the cultural activities of the mosques.

All these types of public funding can help Muslim associations in their project of mosque. But they are globally insufficient. That is why French mosques often depend on foreign funds (Islamic organizations, countries of the Gulf), particularly for the building. They also call on the donations of the Muslim community in France, but given its relative low level economically, these are limited. In practice, the situation is quite contrasted from one city to another, depending on the political will of the municipality to help the Muslim community. In many areas, the building projects of mosques come up against the hostility of the local power and associations of residents. Local authorities sometimes twist the legal means or even take illegal decisions to prevent the building of a mosque: use of their pre-emptive right to buy a land that Muslim associations wish to acquire; questionable or even illegal refusal of the building permit (based on grounds other than urbanism). Other municipalities are rather favourable towards projects of mosques but encounter the opposition of the local population. At Lyon, the project took 14 years to be achieved (from 1980 to 1994), mainly due to the opposition of associations of residents.

Various actors advocate a change of the 1905 law in order to enable Muslims to practice their religion in good conditions. Some of them also state that the absence of public funding comes to put Islam of France under the control of foreign powers. The current Home secretary (also in charge of religions), Nicolas Sarkozy, announced several times that the situation has to be changed and ordered a report to a law academic, Jean-Pierre Machelon. This report, presented at the end of September 2006, recommends that municipalities directly subsidise the building of mosques without any ceiling. For the moment, nothing new has been decided.

**Score: -1**

## 5. MEDIA

### **54. Islamic religious programs in public and state-subsidized private broadcasting (not including cable and satellite)**

The French State guarantees to main religions freedom of expression through television. A law in 1986 set up the broadcasting of religious programs on the public channel "France 2". Such programs are funded by the public channel and directed by representatives of religions. They are broadcasted on Sunday morning.

Different Muslim associations have been responsible for the Islamic program from the 1980s.

Nowadays, the program is named “Islam” and is broadcasted during 30 minutes on Sunday mornings. It deals with various cultural and religious aspects of Islam.

France 2 also broadcasts Buddhist, Jewish, Orthodox, Protestant, and Catholic programs, each also lasting 30 minutes and presenting cultural and religious issues of these religions. But a much longer time is granted to Catholicism since, in addition to this first short program, a mass is broadcasted during 50 minutes at 11 o'clock and then another short program (15 minutes) deals with the current events of the Catholic Church.

**Score: 0**

**55. Programs in public and state-subsidized private broadcasting (not including cable and satellite) for other minority groups or for the whole immigrant population**

The first program dedicated to immigrants, named “Mosaïques” (ie “Patchworks”) was created in the 1970s and broadcast on the public channel “France 3” until the mid-1980s. Other programs followed. In the 1990s, the program “Premier Service” (ie “First Service”) was aimed at immigrants, presenting reports, advice and practical information. Another program was also created, implementing a different kind of approach: the program “Saga-Cités”, broadcasted on France 3 from 1991 to 2002, tackled the topical issues of suburbs and other economically disadvantaged urban areas through the projects of the population living there. As immigrants and their descendants constitute a great part of the population in these areas, issues such as immigration and the integration of the second and third generation were dealt with. The program was not addressed specifically to immigrants or persons of foreign origin but to a larger audience, aiming at making the public aware of the specific life in such urban areas and giving value to it.

In the 2000s no program took over from the previous ones. But the situation may change in the following years, as the representation of the French cultural diversity in the medias and particularly in television has been a much discussed issue over the last years. However, it is not really a matter of creating specialized programs for minority groups or immigrants as there is a strong reluctance in France towards all kinds of particular arrangements and projects exclusively directed to minority groups. The objective is rather to favour programs addressing to the general public and to be representative of the cultural diversity through their issues, their presenters and guests. On January 2004, “France Télévisions” group (ie the group gathering all the French public channels) adopted the “Plan of Positive Action for Integration” (PAPI), which aimed at improving the expression and the representation of French cultural diversity in public channels. This concerns the people present on TV (presenters, journalists, people in the public, actors of movies and sit-coms, etc.) and the choice of issues and programs as well. A specific department charged of “integration and diversity” was created within the group to supervise the implementation of the plan.

Moreover, a law on equal opportunities, in May, 2006, gave to the “CSA” (ie the Higher Council of Audiovisual, a public institution responsible for the regulation of the audiovisual sector) the task of seeing that the obligation of diversity is well respected by channels and radios.

Such developments are in line with the EU directive n°2024 on discriminations, which comprises a section about diversity in the medias. The process is just at its earliest stages now and actual actions are still to be implemented. A trade union of the France Télévisions group (the “CGT”) suggested in April 2006 the idea of a weekly information program, broadcast in prime-time, about immigration, which would invite immigrants and people of foreign origin themselves – who are generally little present in the debates about immigration – to speak about their experience, among other actors. The staff charged of the program would also reflect the diversity, by including people from different backgrounds. For the moment, this proposal has not been followed up.

**Scores:**

**General score: -1**

**Algerians: -1**

**Tunisians: -1**

**Italians: -1**

## 6. LABOUR MARKET: GROUP RIGHTS

### **56. Affirmative actions for ethnic minorities in the private sector**

The issues of integration and fight against ethnic discriminations, especially in the labour market, have figured as a priority in the political agenda over the last years. The ex-FASILD (currently named the ANCSEC), which is a public organization intervening in the field of integration of immigrants, the DPM (Migration and Population Department in the Ministry of Employment and Social Affairs) have been key public actors in this field. They have financed or developed various actions directed to private companies, organizations operating in the field of employment and targeted populations (or associations supporting them). The initiatives have been numerous and diverse. They have often been conducted through the signature of agreements between state actors and labour market actors.

From their side, 231 private companies got also involved in the promotion of cultural diversity by signing a “Chart of diversity in the firm” in 2004 (since 2004 about 10 other companies have signed it).

The objective of such actions initiated by the public authorities or by private companies are to fight against ethnic discriminations and favour the cultural diversity inside private firms, through, for example, training of managers (especially Human Resources ones) and actions of communication inside companies. But the actions conducted have not involved true affirmative actions in favour of ethnic minorities, such as the creation of ethnic quotas in the workforce or ethnic monitoring. Treating people differently due to their origin is forbidden in the French law and Constitution and collecting data about ethnic backgrounds is prohibited. The only official experiences of affirmative action are based on local and socio-economic criteria: they are directed to the populations living in socially and economically disadvantaged areas or persons in difficulty of insertion. Immigrants or ethnic minority people represent *de facto* the targets of such actions, if not unofficial targets.

**Score: 0**

### **57. Affirmative actions for ethnic minorities in the public sector**

The same approach is developed in the public sector. Affirmative actions are not much developed and are based on socio-economic criteria only, although ethnic minority people can be the unofficial targets of such policies or at least a great part of the actual beneficiaries. There are notably specific training channels, reserved to young people selected according to socio-economic criteria, to access to some civil service jobs (in the police, for example).

**Score: 0**

### **58. Measures to further the integration of foreigners in the labour market**

**a. policy targets to reduce unemployment of foreigners**

**b. policy targets to promote vocational training for foreigners**

Regarding the integration in the labour market, there are not well-developed policies specific to foreigners in France. However, as foreigners (and more generally ethnic minority people) represent a great part of the population in difficulty of insertion, they are often the actual targets of the policies conducted in the field of employment and vocational training.

The creation of a new “public service of welcome and integration” in 2004 may pave the way to more developed policies in this field. Indeed, in addition to language and civic courses, newly arrived foreigners can be helped to access to different public services, such as health

and social security, but also public employment agencies. But the actions are very diverse from a local area to another and not well developed so far.

**Score: 0**

### **III - GENERAL POS**

#### **3. CONFIGURATION OF POWERS**

##### **59. Degree of federalism and decentralization**

France is considered as a unitary and centralized state: on Lijphart's index of federalism (1999) it scores 1.3 (based on variables 1971-1996). New measures of decentralization were decided in the 2000's, but this have not deeply modified the division of power between the national and local levels, except some specific domains (such as some social policies).

**Score: 1.3**

##### **60. Decentralization at the local level: sub-local public structures (at the level of district, neighbourhood) with political powers**

The decentralization law of 1982 concerning three French big cities, Paris, Marseille and Lyon ("PLM law"), created sub-local structures, namely the district councils ("conseils d'arrondissement"). There are 9 district councils in Lyon, each elects a district mayor and district deputy-mayors. A third of the district councillors are also Lyon local councillors.

District councils have quite limited own powers and low budgets. They do not correspond to full local authorities as only the Lyon local council votes the local budget and decides on expenses. District authorities are in charge of the everyday civil acts (wedding, birth certificates...) and of the management of small public equipments (crèches, small sport equipments and green spaces), for which they cannot decide of investment and operating expenses.

Sub-local councils also play a consultative role towards the city council. First, a part of their members are also city councillors. Apart that, district councils discuss and give their opinion about the local projects impacting their district (setting up and fitting out of public equipments, affectation of local grounds, subsides to associations of the district, etc.). They can send a written question to the city council and ask for a debate on such issues.

**Score: 0**

##### **61. Power distribution in the city**

**The executive is dominant at the level of the city** for several reasons, most of them being connected to the local electoral system.

First, the local assembly is not really autonomous from the executive and, in particular, the mayor. The local executive – ie the mayor and deputy-mayors in charge of specific policy sectors - is elected by the local assembly. However, the local political system is far from being an "assembly system". The executive is not responsible towards the assembly, which cannot overthrow it. The predominance of the executive is also connected to the type of local electoral system. The mayor is a leading local political figure, who composes the political list competing in elections. Local councillors owe him/her their election and are dependent on him/her. The majoritarian electoral system also assures the mayor a strong majority, which does not favour the need for consultation and negotiation.

Moreover, there is confusion between the executive and the legislative powers. The mayor is the executive authority (that he/she can partly delegate to deputy-mayors in charge of specific policy fields) but also has, in practice, significant part of the legislative power: he/she prepares the deliberations of the local council, makes them vote and executes the decisions. In addition, the mayor has extended powers as the local council can delegate

him/her some competences, and he/she is in charge of some policy fields for the State. The predominance of the executive is also connected to the weakness of counter-powers in the local assembly, despite the different measures adopted in this field for 20 years. From a quantitative point of view, the opposition has a very little place in the local assembly due to the predominantly majoritarian electoral system (see next indicator, n°65): it has a low number of seats compared to the proportion of vote and is also divided in several different groups. Qualitatively, the opposition does not have significant means of control, although several measures improve them. In 1992, a law reinforced the power of the local councillors. It asserts the right of local councillors to be informed of the policies discussed in the council, notably through reports sent before the meetings, oral questions (but without obligation of answer) and information given during the meetings. Concerning specifically the important issue of the local budget, the law stated that local councillors must be informed of the main lines of the budget and discuss about that two months before its examination in the city council. A more recent law, in February 2002, slightly increased the rights of the opposition through limited measures. For example, it established the possibility for a part of local councillors to ask for the creation of an information and assessment mission for any local issue in cities of more than 50 000 inhabitants. But the impact of such a measure is quite limited since the number of local councillors required (the fifth) is too important given the under-representation of opposition within the local assembly.

## **62. Electoral systems – Local level**

The electoral system at the local level is predominantly majoritarian, with a degree of proportionality. In towns with more than 3 500 inhabitants, it is a two-ballot election based on political lists (and not single candidatures). The political lists have to be well distinct, complete (with as many names as the number of seats to be filled) and with a determined order of names. At the first ballot, the list that gets the absolute majority of votes and the quarter of registered voters obtains the half of seats; the rest is distributed on a proportional basis. The other lists must get at least 5 % of valid votes to be admitted for the distribution of seats.

If a second ballot is needed, only the lists that got at least 10 % of the valid votes at the first ballot can present themselves. The lists can be modified and comprise candidates from other lists, on condition these candidates are not divided into several lists, these lists obtained at least 5 % of valid votes at the first ballot and do not present themselves again. The winning list gets the half of the seats and the rest is distributed proportionally.

The mayor is elected by the elected local councillors at the absolute majority (first or second ballot) or at the relative majority only (third ballot). The mayor generally is the first candidate on the winning list. The local councillors in charge of specific policy fields are elected in the same way; their number has to be 30 % of the total number of local councillors. In Lyon city, the local elections are organized at the level of districts. The third of district councillors are also Lyon city councillors and elect the Lyon mayor.

Thus local elections are predominantly majoritarian due to the distribution rules of seats and to the required minimum shares of votes to be admitted at the second ballot.

## **63. Party systems in the city**

All party systems of the cities investigated are multiparty systems. There are three exceptions connected to the actual political offer available in the cities at some periods: two parties only (a left one and a right one) were present in local elections in Oullins in 1995 and 2001, and in 2001 in Décines-Charpieu and Pierre-Bénite.

## **64. Party(ies) in the city (one party/a coalition of parties)**

Generally, several parties of the same political camp (left or right) are in power in the cities of the Lyon urban area. However, one party predominates (especially due to the type of electoral system, widely majoritarian). Hence this is not a true “coalition of parties”. Most

mayors only granted a limited number of political positions (deputy-mayors) – and the least important ones – to the others parties, which most of the time support his/her decisions. Only one party was in power in the following cities: Bron (1995-2001), Décines-Charpieu (1995-2001 and since 2001), Oullins (1995-2001 and since 2001), Pierre-Bénite (1995-2001 and since 2001), Vaulx-en-Velin (1995-2001), Vénissieux (1995-2001 and since 2001).

#### **65. Party(ies) in power – National level**

The French President is elected for five years since 2000 (instead of 7). The Members of Parliament are also elected for five years. The President plays a very significant role in the political decision making: he/she has specific own powers, appoints the members of the government and the Prime Minister (respecting the political majority in the National Assembly), and defines the main lines of domestic and foreign policies. However, in case of cohabitation, the government defines the general policy of the country and the President focuses on foreign affairs.

#### **Parties in power:**

##### **1993-1997**

- Cohabitation (1993-1995): left-wing President (François Mitterrand) and right-wing government (Edouard Balladur) and parliamentary majority
- After the presidential elections of 1995: right-wing President (Jacques Chirac) and right-wing government (Alain Juppé) and parliamentary majority

##### **1997-2002**

After the dissolution of the National Assembly, new period of cohabitation: right-wing President (Jacques Chirac) and left-wing government (Lionel Jospin) and parliamentary majority

##### **2002-2006**

After presidential and general elections in 2002: right-wing President (Jacques Chirac) and right-wing governments (Jean-Pierre Raffarin and, since May, 2005, Dominique de Villepin) and parliamentary majority.

#### **66. Party(ies) in power – Local level**

City	Parties in power	
	1995-2001	2001-2008
Lyon city	Right (UDF and other moderate right parties)	Left (Socialist Party and other left parties)
Bron	Left (Socialist Party)	Left (Socialist Party and other left parties)
Caluire-et-Cuire	Right (UDF and other moderate right parties)	Right (UDF and RPR)
Décines-Charpieu	Left (Socialist Party)	Left (Socialist Party)
Meyzieu	Left (Socialist party)	Right (DVD + RPF)
Oullins	Right (RPR)	Left (Socialist Party)
Pierre-Bénite	Radical left (Communist Party)	Radical left (Communist Party)

Sainte-Foy-lès-Lyon	Right	Right	
Vaulx-en-Velin	Radical left	Left (Mainly moderate left + radical left)	
Vénissieux	Radical left (Communist Party)	Radical left (Communist Party)	
Villeurbanne	Left (Socialist Party)	Left (Socialist Party)	

#### 4. PARTICIPATION MECHANISMS

##### 67. Referenda (Local level)

Local referenda were officially recognized from the 1990s through different laws, in 1992, 1995 and 2003, aiming at favouring the participative local democracy. But French formulas of local referenda remain quite limited compared to some foreign experiences since different regulations limit their practice and their impact as well. The representative democracy is still privileged today in France. The debates over the laws of 2003, notably creating decisional referenda, strongly showed the resistances of local elected representatives towards such forms of citizen participation which could question political representation and especially the power of mayors.

Until 2003, local referenda were only consultative. The city council was then free to follow or not the citizens' vote. The constitutional law of March 2003 and the law of August 2003 instituted decisional referenda. This is quite a novelty in French law (apart from referenda concerning the fusion of towns or the modification of their borders). But these measures also show the great cautiousness of political actors since, notably, a minimal turnout of 50 % at the referendum is necessary. What is more, there is no right to citizens' initiative in this case (see next indicator).

The practice of referenda is strictly regulated. For example, the referendum cannot take place in the year preceding the local elections and cannot follow a previous referendum before a delay of one year. In case of a proposal of referendum initiated by citizens (see next indicator), a same citizen cannot ask for a consultation more than once a year and the local council can only receive such requests during the third and the fourth years following its election. Such limits notably aim at avoiding a diversion of referenda by the opposition for political goals or its capture by active minorities, but this also introduces important constraints limiting the practice of referenda in favour of the representative democracy.

In addition, it must be noted that the decisions submitted to referendum must concern fields coming under the competences of the city. Hence, for example, local citizens cannot pronounce themselves on a project of construction of a highway because this constitutes a State responsibility, while this may have a considerable impact on their local environment.

**Score: 1**

##### 68. Who can initiate the referendum? (Local level)

True "popular initiative referenda" do not exist in France.

The most usual type of referendum, recognized in the law of February 1992, is initiated by the mayor or the majority of local councillors (in cities of more than 3 500 inhabitants). It can concern any decision coming under the competence of the city authorities.

The law of February 2005 also recognized citizens the right to initiate the procedure, but this

is very limited: citizens can only ask the local council (or to the Lyon urban area assembly) to organize a referendum. In addition, such a procedure only applies to specific policy decisions: those relating to city planning (construction and fitting out of infrastructures). In that case, a fifth of citizens registered on electoral lists is required. The local assemblies do not have the obligation to follow the demand of citizens by actually organizing a referendum. Regarding decisional referenda on all issues coming under the local council's competences, they can only be initiated by the local council. The legislation does not even give citizens a right to request their calling. But as a petition right was recognized at the local level by the constitutional law of 2003, nothing goes against the possibility that citizens use it to request the organization of a referendum. The practical conditions of this petition right have not been defined yet in the legislation, notably concerning the required number of citizens.

**Score: 0**

#### **69. Number of (consultative or binding) referenda held over the past 10 years (Local level)**

The actual practice of referenda is very limited, if not nonexistent. No detailed information was found for most of the cities investigated but the number of referenda held over the last ten years was not higher than 5 in each city (0 in Meyzieu and Pierre-Bénite).

**Score: -1 (all cities)**

#### **70. Existence and type of Citizen Assemblies**

The law on local democracy, adopted in February 2002, made citizen councils compulsory in cities of more than 80 000 inhabitants, at the level of districts. It was initially envisaged to apply this measure to cities of more than 20 000 inhabitants but, faced with the resistances of the Members of Parliament, the government had to shrink back. The measure was also limited by the fact that the composition and working rules of the councils are decided by each local council.

Due to this legislation, citizen councils, responsible for a specific area/district in the city, do exist in Lyon or Villeurbanne. Other cities had also set up such district citizen assemblies, whereas it is not an obligation for them, such as Vaux-en-Velin and Meyzieu. In Pierre-Bénite, the municipality created a single citizen council for the whole city because of the city's size and also because local officials wanted to create an assembly where citizens are blending. In other cities, there are no citizens assemblies, for example in Caluire-et-Cuire.

**Scores:**

**Lyon, Villeurbanne, Vaux-en-Velin, Meyzieu, Pierre-Bénite : 0**

**Caluire-et-Cuire: -1**

#### **71. Powers of Citizen Assemblies**

When they exist, the Citizen Assemblies are more or less active, especially depending on the individual implication of their members and their more or less long existence (some citizen assemblies in Lyon were created before the 2002 law). Generally speaking, they meet quite regularly. They choose by their own the issues on which they work. They are in contact with local officials who can be heared by them. But their role is only consultative: the local authorities are not obliged either to consult them or to follow their opinions.

**Scores:**

**Lyon, Villeurbanne, Vaux-en-Velin, Meyzieu, Pierre-Bénite : 0**

**Caluire-et-Cuire: -1**

#### **72. Involvement of civil society organizations (associations, foundations, interest groups...) in the definition of local policies**

Civil society organisations can be consulted through some formal bodies, at the level of the districts, the whole cities and the urban area (the "Greater Lyon"). This is the result of the legal obligations imposed by the national legislation on local democracy adopted since the

1980s, but also of the specific local regulations, especially those set up by the “Greater Lyon”, the supra-municipal authority gathering 55 cities of the Lyon urban area.

At the level of districts and cities, civil organizations are first present in citizen councils. In Lyon, one body of the citizen councils is reserved to them. In other cities, there is not such a scheme, but, actually, members of citizen assemblies are often also members of associations. The representation is here individually-based: organizations are not consulted as such.

In different cities, civil society organizations also take part in “extra-municipal commissions” that gather local elected representatives and associations to work on specific issues. For example, Lyon city set up such commissions in the 2000s on the themes of handicap and of prevention of health risks (VIH). It also reactivated in 2001 a former commission established in 1989 by setting up a new body: the “Lyon Council for the respect for rights”, which is made up of representatives of the municipality and of civil society actors and works on any issue related to human rights in the city. In Vaux-en-Velin, there is a “Development council”, gathering residents, associations and local officials and working on issues related to the daily environment of citizens.

Civil society actors may also be consulted more informally. In this respect, the practices greatly vary according to the policy sectors, to the elected representatives and to the cities. Actually, apart from some policy issues (for which special consultative bodies are set up), the consultation is generally informal and optional. And in citizens assemblies, associations are not represented as such.

At the level of the Greater Lyon, there is a specific policy in the field of citizen participation. The Greater Lyon has committed itself, over the last few years, to improve the participation of citizens and civil society organizations in local policies. That is why it has developed different types of institutions and procedures, some of them going beyond what is required by the law. There are permanent consultative bodies in which civil society actors take part, with local officials. One of the most important one is the “Development Council”, which exists in all urban communities such as the Greater Lyon. It is consulted by the executive power of the Greater Lyon or initiates by its own specific works. It deals with issues related to the domains of action of the Greater Lyon, such as social policies, economic development, urban planning, environment, transports. The Council comprises 6 member bodies: representatives of economic activities, professional organizations and trade-unions (50 members), of public institutions (40), of associations (50), of citizen councils and other citizen organizations (40), qualified persons (15-20) and citizens (50). The three other permanent consultative bodies work on specific policy sectors. There is a group gathering local partners of the business world (among which employers’ organization and small business organization), who intervene in the definition of local economic development policies. Another consultation body is devoted to the housing sector. Lastly, a consultative commission, made compulsory by the national legislation in 2002, is in charge of the quality of delegated local public services (water, waste, heating, etc.). Apart from such formal consultative bodies, the Greater Lyon authorities have also encouraged ad hoc consultation processes as far as urban development projects are concerned.

**Scores:**

**Greater Lyon: 1**

**Cities: 0**

**73. Involvement of civil society organizations (associations, foundations, interest groups...) in the implementation of local policies**

There are two main kinds of involvement of civil society organizations in the implementation of local policies. First, civil society organizations can be consulted and express their views about the implementation of policies, formally, through the existing consultative bodies (see previous indicator) or informally.

Secondly, some associations may implement public policies in the framework of two different kinds of procedures. The first is the convention: in this case, associations are subsidised to carry out actions complying with the objectives defined by the local authorities. It is a sharing of means, but not a transfer of responsibilities, contrary to the second type of procedure: the delegation of public service. According to this procedure, the civil society organization is responsible for a domain (such as the management of a leisure centre for children, an old people's home, etc.) and paid by the local authorities and the users' contributions. In both cases, and especially in the second one, the actions of associations are strictly supervised by the local authorities. Such procedures are especially used in the field of social policies.

**Score: 0**

#### **74. Pluralism of the participation system in the city**

No detailed information was found on this point.

**Score: N.A.**

#### **75. Is there a specific department in the local council devoted to promote citizen participation?**

In most of the investigated cities, there is no specific department devoted to citizen participation. In some of them, such as Lyon, the municipalities rather aim at making all departments aware of the needs for a greater citizen participation and responsible for such a policy line.

The situation is different at the level of the “Greater Lyon”, which created a specific department in charge of citizen participation, namely the “Consultation Mission”. This body must define the consultation methods and disseminate them among the departments of the “Greater Lyon”, especially through a guideline book and training sessions. In addition, for each urban planning project of the “Greater Lyon”, there is an official specifically in charge of consultation.

**Scores:**

**Cities: 0**

**Greater Lyon: 1**

#### **76. Is there a bill of rights or a similar local legislation that regulates how citizens can influence the decision-making processes in ways other than selecting their elected representatives?**

The national legislation contains some provisions related to citizen participation at the local level, since, for example citizen councils (for cities of 80 000 inhabitants and over) and some consultative bodies are compulsory.

At the local level, there is no local legislation about citizen participation in the cities, but there is one in the “Greater Lyon”. Indeed, this local authority adopted in 2003 a “Charter of participation”. The general objective is to favour the local democracy by better involving citizens and associations in the local policies. Several main lines of actions are defined in the Charter. Apart information of citizens (through exhibitions, websites, official newspapers, pamphlets...), various consultation processes are mentioned in the Charter. These refer to consultative permanent bodies but also to ad hoc consultations of citizens and associations as far as specific urban projects are concerned. The Charter states that the idea is also to involve the citizens, beyond associations and citizen assemblies, who are not used to participating in public affairs by specific actions. A committee is in charge of the assessment of the application of the Charter and writes a yearly report.

**Scores:**

**Cities: 0**

**Greater Lyon: 1**

#### **77. Number of local-council-owned buildings granted to associations as meeting spaces**

<b>Raw number per 1,000 inhabitants</b>
No detailed information was found by city. In general, there is in each city one or several “maisons des associations” (“association houses”), which are public buildings providing spaces to associations for their offices and meetings. Municipalities also grant public spaces/theatres for associations’ cultural events or other.
<b>Score: N.A.</b>
<b>78. Average percentage of local budget devoted to subside associations in general (1995-2005) Raw percentages</b>
No detailed information was found by city, except for Pierre-Bénite, where the planned budget devoted to subside associations in general in 2007 is 1,2 million euros over a total municipal budget of 20 millions, that is 6 %.
<b>Scores:</b>
<b>Pierre-Bénite: 6 %</b>
<b>Others: N.A.</b>
<b>79. If there are sub-local public structures: do citizens have participation mechanisms within these structures?</b>
The participation mechanisms are the same as those described above (indicator n°70) since citizen assemblies are set at the level of districts in most of the cities where they exist (except in Pierre-Bénite).
<b>Scores:</b>
<b>Lyon, Villeurbanne, Vaux-en-Velin, Meyzieu: 0</b>
<b>Caluire-et-Cuire: -1</b>

## **IV – SPECIFIC POS (related to immigration and ethnic relations)**

<b>80. Main responsibility for immigrants' integration policies</b>
Immigrants' integration comes under the main responsibility of the national level. Policies in this field are defined by the central institutions and applied at the local and regional levels by structures representing the national level/the State (such as the “Prefectures” in regions and “départements”, i.e one of the administrative divisions of France, between the level of towns and the level of regions).
Over the few last years, the policy of immigrants' integration has been redefined and reinforced. In 2003, the “Comité Interministériel à l’Intégration” (i.e interdepartmental committee in charge of the coordination of governmental actions related to integration) gathered, for the first time since ten years. This bore witness to the governmental will to make such an issue a priority, through both actions of specialised institutions and adaptation of common policies. First, the support to recently arrived immigrants has been strengthened, with the creation of a new “public service of reception and integration” in 2005, managed by a new public agency: the ANAEM (Agence Nationale d’Accueil des Etrangers et des Migrations, i.e. National Agency of foreigners ‘reception and migrations). The ANAEM has local offices in several “départements”. The ANAEM offices mainly focus on newly arrived immigrants by supporting them through language programs, information about the life in France and support to social and professional insertion. Their action varies according local areas. The support provided in the field of access to employment and social rights is not always well-developed. A new impulsion has also been given to the fight against discriminations, with the set up of the HALDE (see indicator°34). The creation of the “Cité Nationale d’Histoire de l’Immigration” (National Agency of Immigration History) in 2004 aims at make collective representations change in a positive way about immigrants and their descendants. Another specialized public body, the “FASILD” (Fond d’Action et de Soutien à

l'Intégration et à la Lutte contre les Discriminations", i.e. Fund of Action and Support to Integration and Fight against Discriminations), intervened in the field of immigrant's integration by financing and supporting projects conducted by associations and other actors (public and private). Its domains of action were mainly the promotion of cultural diversity and the fight against discriminations. In partnership with the Fasild, the Prefectures of regions (representing the State at the regional level) have to implement, since 2005, a regional plan for immigrants' integration, in partnership with public actors from different sectors (employment agencies, social security institutions, etc.), associations and local authorities (among which cities and urban area authorities). In some "départements", the local Prefectures also implement their own plan of integration.

Despite the intention to develop a global policy of immigrants' integration, the actions launched until now have mainly focused on three main fields: the support to newly arrived immigrants, the promotion of cultural diversity through cultural events (festivals, exhibitions...) and the fight against discriminations. As a result, common policies in different sectors (education, employment, social policies...) are generally not well adapted to take into account the specificity of the situation of immigrants, especially those who have been settled in France for a few years. It must also be said that the approach used in this field has often shown a confusion between two issues: immigrants' integration policies and policies directed to the populations living in socially and economically disadvantaged areas. The transformation of the Fasild into a new institution, the "Agence Nationale pour la cohésion sociale et l'égalité des chances" (National Agency for Social Cohesion and Equal Opportunities) may contribute to perpetuate this confusion, as the action of the Agency is not only targeted to immigrants and their descendants but also all people in difficulty of professional and social insertion.

Cities are partners in the policies that are conducted under the responsibility of state actors (regional plan of integration of the Prefectures...) and national public bodies (ANAEM). This constitutes their main role in this field. However, a report by the HCI (Haut Conseil à l'Intégration, i.e. High Council for Integration, 2005) states that a lot of local authorities consider that the policy towards recently arrived immigrants, and even the whole immigrants' integration policy is above all the responsibility of the State. Some of them are little present in the policies conducted, for example in those related to newly arrived immigrants.

Cities can also implement their own policies, but, as immigrant's integration is not a specific domain they have, these policies are generally limited.

**Score: -1**

**81. Public information and support services for immigrants at the local level (which inform them about their rights, the institutions to which they can address, etc.)**

There are no information and support services specific to immigrants in the cities investigated. The only experience was the one of Pierre-Bénite a few years ago, in which a contract public employee was specifically in charge of the information and support to immigrants from North-Africa, as she spoke Arabic. But the experience ended up as few immigrants used this specific service, maybe because they were not informed of this possibility.

The only specific information and support services are not provided by cities but by the ANAEM offices. The ANAEM is a national agency responsible for the management of the contracts of welcome and integration (CAI). It is represented at the local level by local offices. There are one in Lyon and one in Villeurbanne. Such arrangements concern newly arrived immigrants.

**Score:**

**Lyon and Villeurbanne : 1**

**Other cities : -1****82. Which institution (s) has(ve) the leading role in the field of immigrants 'integration? – Local Level**

At the local level, the Prefectures (through the regional and local plans of integration of immigrants) and the local offices of the ANAEM have the main role in the field of immigrants' integration. Cities are partners in the policies implemented by such institutions. Cities can also implement their own policies, but their implication in this field varies from one city to another and are generally little developed. The mayor and the deputy-mayors in charge of some policy sectors (in particular the "Politique de la Ville", see next indicator) are generally the initiators of the actions impacting on immigrants' integration.

**83. Policies related to immigrants ' integration at the local level**

The issue of immigrants' integration is dominantly conceived from a socio-economic approach: actions related to this field are then mixed-up with policies directed to socially and economically disadvantaged areas (where, actually, a lot of immigrants and ethnic minority people are living) or populations. That is why, within cities' administration, the issue of immigrants' integration usually pertains to the deputy-mayors and the departments implementing the "Politique de la Ville". The general orientations of this policy have been defined at the national level. It is implemented at the local level by decentralised local authorities (Greater Lyon and cities...), in partnership with the State that funds a part of the actions. The "Politique de la Ville" aims at compensating the social and economic disadvantages of some specific districts in each city, by improving the daily life in these districts and preventing the risks of social exclusion. Additional means, in terms of budget and public staff, and differential procedures (for example, specific support to access to private or public employment) constitute the usual tools of such policies.

Hence, in most of the cities investigated, the issue of immigrants' integration is not conceived independently from policies aiming at fighting against social exclusion. Some limited actions are conducted in some cities in the cultural field, in order to promote cultural diversity. It is the case in Pierre-Bénite, for example, where a "World Market" is organised each year and gathers notably some ethnic minority organisations from the whole urban area. Some of the cities, less numerous, have gone further in the recognition of the specificity of the situation of immigrants and their descendants. This is the case in Lyon and Villeurbanne. But the policies implemented in both cities have mainly focused on the fight against ethnic discriminations, and not other issues related to immigrants' integration. In Lyon, a special consultative committee, the GIPIV ("Groupe d'Initiative pour l'Intégration dans la Ville") was created in 2003 to conceive a diagnosis and make proposals regarding the fight against social and professional exclusion. The actions conducted have not only concerned Lyon city but also the whole Greater Lyon. They have mainly focused on the fight against discriminations, with a priority given to ethnic discriminations (particularly against people of North-African origin), in the fields of employment first and then of social housing. The main orientation of such a policy is to promote the principle of equal treatment in the city services but also among its partners (employment agencies, private companies, social housing offices, etc.). As far as affirmative actions are concerned, for example regarding the access to public and private employment, vocational training or prestigious higher education schools, they concern the populations living in disadvantaged areas, since the use of ethnic criteria is not possible in France. In Villeurbanne, there is also, since 2002, a special consultative committee, now named "Commission villeurbannaise contre les discriminations ethniques" (i.e. Villeurbanne Committee against ethnic discriminations"). Under the influence of this committee, a project of fight against ethnic discriminations in the sector of employment has been implemented for one year and half. The actions conducted aim at establishing a shared local diagnosis, training and enhancing the awareness of the various protagonists

(employment agencies, training organizations, companies and social partners) and accompanying the beneficiaries. The goal is also to create a network of companies fostering cultural diversity in companies through the creation of non-discriminatory procedures and recruitment tools.

In other respects, some cities have been committed in two other domains relevant to immigrants' integration: the support to undocumented immigrants threatened by expulsion measures and to the foreigners' vote in local elections. But this constitutes actions of occasional support and of political commitment rather than official policies, as both policy issues do not depend on cities' responsibility. In some left-wing cities that have a long tradition of reception of immigrants, actions to support illegal immigrants are conducted. For example, the Communist city of Pierre-Bénite set up with the "Cimade" (an association supporting immigrants) an "alert system" concerning the difficult situations of some illegal immigrants in the city and is in contact with the Prefecture in order to find favourable solutions. The Socialist city of Villeurbanne has favoured the signature of "republican sponsorships" of illegal immigrants by citizens or local officials: the sponsor provides support to an undocumented immigrant, especially in terms of juridical advice to get the regularization. In the field of immigrants' political rights, some local officials, for example in Villeurbanne and Vaulx-en-Velin, have taken a stand in favour of the action of one association, the "Ligue des Droits de l'Homme" (Human Rights League), which organises citizens votes in the cities to show that the public opinion is in favour of the local vote of immigrants. In Lyon, a consultative committee, the "Conseil Lyonnais pour le respect des droits" (i.e. the Lyon Council for the respect for rights) has been working, among other issues, on the question of foreigners' vote in local elections: it is conducting analysis work in this field.

**Scores:**

**Lyon and Villeurbanne:1**

**Other cities: 0**

**84. Is there a specific department in the local council devoted to immigrants' integration policies?**

In most cities, there is no specific department devoted to immigrants' integration policies, as such policies are mixed-up with other general policies, especially those against social exclusion.

In Lyon and Villeurbanne, there are special bodies dedicated to the fight against discriminations. In Lyon, the consultative committee on integration (the GIPIV) has a role of analysis and proposal. The "Mission Egalité" (Equality mission), set up in 2005, is the department in charge of the implementation of the anti-discrimination policies in Lyon ; it works in partnership with the various departments of the municipality in order to integrate the principle of equal treatment in all policy sectors. In Villeurbanne, the Commission against ethnic discriminations also has a role of diagnosis and proposal. The anti-discrimination policies are implemented by various departments of the city.

**Scores:**

**Lyon and Villeurbanne:0**

**Other cities: -1**

**85. Percentage of total local budget devoted to immigrants' integration policies**

These figures are not available, as such policies are integrated within other policies, especially those against social exclusion.

**Score: N.A.**

**86. Existence of a council/board/assembly that represents immigrants/minority groups**

Only Lyon city set up such a council. The "Conseil des Résidents Etrangers Lyonnais" (i.e. "Council of Lyon Foreign Residents") was set up very recently in Lyon, on March 2005. The

left-wing mayor of Lyon, Gérard Collomb, was the initiator of such a decision. The general goal of the CREL is to “compensate the absence of a local vote right for the 25 000 non-EU foreigners at Lyon” (quoted from the City official website) and to allow them “to participate more actively in the life of the city and then to build a residence citizenship” (quoted from the report by the mayor, March 9<sup>th</sup>). Under the presidency of Sabiha Ahmine, local councillor in charge of the policy field of “Integration and Citizens’ Rights”, the CREL gathers 50 non-EU foreign residents (25 councillors and 25 deputy-councillors). They were not elected but appointed for three years. After an information campaign in the local press but also towards organizations in contact with foreigners (consulates, associations...), about 200 applications were received. The selection of councillors was made by taking into account different criteria, the idea of diversity being presented as a key element for the choice. First, the composition of the Council was made by considering the importance of the different migrant groups settled at Lyon. The 50 Council’s members represent 37 nationalities today. For the most numerous communities (such the Algerian one), there are 3 councillors; for less important groups, two councillors, etc. The rule of “parity” (equal representation of men and women) is also respected and criteria such as the age, the social backgrounds and the local districts of the members were also taken into account. Some of the CREL’s members are also associations’ militants.

Despite this attention paid to diversity, the mayor stressed, in his speech presenting the institution, that CREL’s members must not represent their communities or their associations, but the immigrant population as a whole, which well reveals the official rejection, quite strong in France, of any representation of communities or particular interests.

The Council is a place of reflection and proposal. It must gather at least four times a year in plenary assembly. It has a formal right of information about local policies and often hears local officials. It can make proposals, spontaneously or when consulted by the City Council. Once a year, the Council has to write an activity report that is presented to the City Council and discussed. But the City Council has neither the obligation to consult the Council of Lyon Foreign residents each time it examines a special issue related to immigrants’ integration nor to follow its advice.

**Score:**

**Lyon : 1**

**Others : -1**

#### **87. Involvement of minority/immigrant organizations in the definition of local policies**

In the cities investigated, there are not many organizations that present themselves as minority organizations. In most cities, Muslim associations exist. Some of them are linked to the mosques and manage their religious or cultural activities. Muslim associations are in relation to local officials essentially when a building project of a mosque is at stake. They are not involved in the definition of local policies.

There are also cultural minority organizations and notably Italian, Algerian and Tunisian organizations. Some of them are mainly places of sociability and cultural activities. Others also implement actions of solidarity towards the origin country (sending of equipments, etc.) but often also towards people of all origins who are in difficulty in their district (for example during Christmas celebrations, through school support actions, etc.). Indeed, many of such organizations try to present themselves as open to a larger public than the only cultural community people. This is the case, for example, of the AACEL (“Association Algérienne Culturelle et Sportive de l’Est Lyonnais”, i.e., Algerian Cultural and Sport Association of the Eastern Lyon), which is currently trying to change its name by adopting the one of “Association Aide-Culture-Solidarité-Echanges-Là-bas” (i.e. Aid-Culture-Solidarity-Exchanges-There Association), in order to demonstrate that it does not concern people of Algerian origin. It must be said that municipalities are generally reluctant to finance

associations and projects restricted to one particular community. These organizations can be financially supported by the cities for their cultural actions, in order to promote cultural diversity, or for their solidarity projects. They do not play a role in the definition of local policies.

**Score: -1**

**88. Involvement of minority/immigrant organizations in the implementation of local policies**

Minority organizations are not involved in the implementation of local policies.

**Score: -1**

**89. Involvement of organizations specialized in immigration/integration issues in the definition of local policies**

From a general point of view, the involvement of organizations specialized in immigration or integration issues in the definition of local policies is very limited. This can partly be explained by the fact that cities do not develop significant and specific policies in the field of immigrants' integration.

In the cities where there are more actions in this field, essentially through the fight against ethnic discriminations, these organizations are more involved. Indeed, a few members of the consultative bodies about integration (the GIPIV in Lyon) or ethnic discriminations (Commission against ethnic discriminations in Villeurbanne) are also members of associations specialized in immigration/integration. For example, the leader of the association "ISM-CORUM", intervening in the fields of cultural diversity, integration and fight against discriminations, is a member of the GIPIV.

The "Council for the respect of rights" is another consultative committee of the Lyon city. It gathers local officials and representatives of associations, among which some organizations specialized in integration/immigration issues, such the "Cimade", ISM-CORUM and "Forum-Réfugiés". However, the proposals and advice of the Council have not concerned so far specific issues related to immigrants. Its works about foreigners' vote in local elections has not led to specific policy proposals because this does not depend on a municipality's decision.

**Scores:**

**Lyon and Villeurbanne: 1**

**Others: -1**

**90. Involvement of organizations specialized in immigration/integration in the implementation of local policies**

Organizations specialized in immigration/integration issues are not specially involved in the implementation of the cities' local policies.

However, they are involved in the provision of services offered by the ANAEM to newly arrived immigrants in the framework of the CAI: they provide language courses, other type of training and information.

**Score: -1**

**91. Involvement of organizations playing a relevant role for immigrants ' integration (such as Human rights organizations) in the definition of local policies**

Such organizations are generally not involved in the definition of local policies. They can have some links with the municipalities, especially, in some cities, around the issues of the regularization of illegal immigrants (Pierre-Bénite, Villeurbanne...), or of the foreigners's vote in local elections (Villeurbanne, Vaulx-en-Velin, Lyon...).

In Lyon, organizations of this type also take part in the "Council for the respect for rights", such the MRAP ("Mouvement contre le Racisme et pour l'Amitié entre les Peuples", i.e Organization against racism and for brotherhood between peoples). But the Council has not work and made policy proposals about immigrants' integration yet.

**Score: -1**

**92. Involvement of organizations playing a relevant role for immigrants ‘ integration (such as Human rights organizations) in the implementation of local policies**

Organizations playing a relevant role for immigrants’ integration (such as Human rights organizations) are not particularly involved in the implementation of local policies.

**Score: -1**

**93. Involvement of the local power in the funding of minority/immigrants organizations**

Most of the municipalities tend to be reluctant to finance the projects that are restricted to one particular community. That is why minority/immigrants organizations are not often funded.

**Score: -1**

**94. Requirements to be able to apply for subsidies**

A law in 1981 recognized the associations led by foreigners and put their statuses into line with the common rules. That is why there are no specific requirements for these associations when applying for public subsidies.

**Score: 1**

**95. Party arrangements to favour the presence of persons with ethnic minority background in the leadership of the party – Local level**

There are no such party arrangements.

**Score: -1**

**96. Party arrangements to favour the presence of persons with ethnic minority background in the party (rank-and-file members) – Local level**

There are no such party arrangements.

**Score: -1**

**97. Share of radical right and anti-immigrant parties in the electoral vote – National level: general elections**

The electoral system for general elections is majoritarian. Minimum shares of vote are defined for the access to the 2<sup>nd</sup> ballot (12,5% of the *registered voters*). The electoral results at the first ballot are then more representative of the actual political audience of anti-immigrant parties.

The results of several anti-immigrant parties are taken into account, mainly the “Front National” (the most important one), and the “Mouvement National Républicain” (which comes from a scission from the “Front National” in 1999 and generally gets in elections a very limited number of votes).

Two elections are taken into account: those of 1997 and 2002.

Mean – 1<sup>st</sup> ballot: 13,86 %

Mean – 2<sup>nd</sup> ballot: 3,78 %

**Score: -1**

**98. Share of radical right and anti-immigrant parties in the electoral vote Local level: general elections**

First Ballot			
City	1997	2002	Mean
Lyon city (global)	16,82 %	11,12 %	<b>13,97 %</b>

Caluire-et-Cuire	16,18 %	12,04 %	<b>14,11 %</b>
Décines-Charpieu	24,14%	22,84 %	<b>23,49 %</b>
Meyzieu	27,25 %	21,56 %	<b>24,4 %</b>
Oullins	15,57 %	11,64 %	<b>13,61 %</b>
Pierre-Bénite	20,97 %	15,42 %	<b>18,20 %</b>
Sainte-Foy-lès-Lyon	13,29 %	10,08 %	<b>11,69 %</b>
Vaulx-en-Velin	27,88%	19,47 %	<b>23,68 %</b>
Vénissieux	24,69 %	21,36 %	<b>23,03 %</b>
Villeurbanne	22,16 %	15,71 %	<b>18,94 %</b>

<b>Second Ballot</b>			
<b>City</b>	<b>1997</b>	<b>2002</b>	<b>Mean</b>
Lyon city (global)	0 %*	0 %*	<b>0 %*</b>
Bron	18,57 %	0 %*	<b>9,29 %*</b>
Caluire-et-Cuire	0 %*	0 %*	<b>0 %*</b>
Décines-Charpieu	23,39 %	19,28 %	<b>21,34 %</b>
Meyzieu	25,32 %	18,83 %	<b>22,75 %</b>
Oullins	0 %*	0 %*	<b>0 %*</b>
Pierre-Bénite	0 %*, **	0 %*	<b>0 %*, **</b>
Sainte-Foy-lès-Lyon	0 %*	0 %*, ***	<b>0 %*, ***</b>
Vaulx-en-Velin	24,73 %	0 %*	<b>12,37 %*</b>
Vénissieux	33,54 %	0 %*	<b>16,77 %*</b>
Villeurbanne	16,65 %	0 %*	<b>8,33 %*</b>

\*FN (or another radical right party) absent at the 2<sup>nd</sup> ballot of one of the elections (or both) due to the minimum threshold of votes (12,5 % of the *registered voters*).

\*\*FN (or another radical right party) not candidate at the one of the elections (or both)

\*\*\* No 2<sup>nd</sup> ballot (one of the party won at the 1<sup>st</sup>)

**Score: -1 for all cities** (considering the results at the 1<sup>st</sup> ballot)

#### **99. Share of radical right and anti-immigrant parties in the electoral vote – Local elections (city council)**

Minimum shares at the first ballot are needed to participate in the local elections (10% of *valid votes*). The electoral results at the first ballot are then more representative of the actual political audience of anti-immigrant parties.

Two elections are taken into account: those of 1995 and 2001.

As for Lyon city, the results are detailed by districts

<b>First Ballot</b>			
<b>City</b>	<b>1995</b>	<b>2001</b>	<b>Mean</b>
Lyon city (global)			<b>11,25 %</b>
Lyon 1	12,06 %	4,34 %	<b>8,2 %</b>
Lyon 2	13,5 %	5,76 %	<b>9,63 %</b>
Lyon 3	16,48 %	7,26 %	<b>11,87 %</b>
Lyon 4	11,65 %	5,33 %	<b>8,49 %</b>
Lyon 5	12,86 %	6,15 %	<b>9,51 %</b>
Lyon 6	13,58 %	5 %	<b>9,29 %</b>
Lyon 7	11,8 %	7,55 %	<b>9,68 %</b>
Lyon 8	19,32 %	12,74 %	<b>16,03 %</b>
Lyon 9	16,53 %	8,69 %	<b>12,61 %</b>
Bron	19,81 %	11,64 %	<b>15,73 %</b>
Caluire-et-Cuire	12,69 %	8,7 %	<b>10,70 %</b>
Décines-Charpieu	19,99 %	0%**	<b>10 %**</b>
Meyzieu	25,65 %	0 %**	<b>12,83 %**</b>
Oullins	0 %**	0 %**	<b>0 %**</b>
Pierre-Bénite	0 %**	0 %**	<b>0 %**</b>
Sainte-Foy-lès-Lyon	11,22 %	8,43 %	<b>9,83%</b>
Vaulx-en-Velin	31,2%	0 %**	<b>15,6 %**</b>
Vénissieux	27,49 %	14,32 %	<b>20,91 %</b>
Villeurbanne	17,09 %	16,26 %	<b>16,68 %</b>

<b>Second Ballot</b>			
<b>City</b>	<b>1995</b>	<b>2001</b>	<b>Mean</b>
Lyon city (global)			<b>8,61 %*</b>
Lyon 1	11,44 %	0 %*	<b>5,72 %*</b>
Lyon 2	16,2 %	0 %*	<b>8,1 %*</b>

Lyon 4	13,2 %	0 %*	<b>6,6 %*</b>
Lyon 5	13,78 %	0 %*	<b>6,89 %*</b>
Lyon 6	15,31 %	0 %*	<b>7,66 %*</b>
Lyon 7	17,82 %	0 %*	<b>8,91 %*</b>
Lyon 8	19,04 %	8,43 %	<b>13,74 %</b>
Lyon 9	15,17 %	0 %*	<b>7,59 %*</b>
Bron	18,64 %	11,19 %	<b>14,92 %</b>
Caluire-et-Cuire	11,81 %	0 %*	<b>5,91 %*</b>
Décines-Charpieu	0 %***	0 %**	<b>0 %**, ***</b>
Meyzieu	18,69 %	0 %**	<b>9,35 %**</b>
Oullins	0 %**	0 %**	<b>0 %**</b>
Pierre-Bénite	0 %**	0 %**	<b>0 %**</b>
Sainte-Foy-lès-Lyon	10,16 %	0 %*	<b>5,08 %*</b>
Vaulx-en-Velin	33,54%	0 %	<b>16,77 %**</b>
Vénissieux	29,56 %	17,63 %	<b>23,60%</b>
Villeurbanne	14,02 %	15,2 %	<b>14,61 %</b>

\* FN (or another radical right party) absent at the 2<sup>nd</sup> ballot of the 2001 election due to the minimum threshold of votes.

\*\* FN (or another radical right party) not candidate at one of the elections (or both).

\*\*\* No 2<sup>nd</sup> ballot (one of the party won at the 1<sup>st</sup>).

**Scores:**

**Oullins, Pierre-Bénite, Sainte-Foy-lès-Lyon and some districts of Lyon city (1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7 th): 0** (considering the results at the 1<sup>st</sup> ballot)

**All other cities and districts of Lyon city : -1**

## **GENERAL CONCLUDING COMMENTS**

The recent legislation has considerably tightened the provisions for accessing the community, especially for the categories of immigrants who benefited before from more favourable conditions, especially those coming under family immigration. However, these changes in the legislation generally do not apply to Tunisian and Algerian immigrants because of the bilateral agreements linking France and their countries, which strongly differentiate those immigrants from other non-EU ones. As for Italian immigrants, they can access to the community very easily, as other EU citizens, since they no longer have the obligation to hold a permit in order to remain in France.

Regarding the access to nationality, the situations of our three groups are not very different. The French system in this field is quite open. However, the acquisition of nationality is not institutionally encouraged and rather seen as the crowning achievement of the integration process, hence depending on the personal motivation of the foreigner above all.

With regard to social rights, the French system is also quite open, the principle of equal treatment between French people and foreigners having been enforced gradually, especially under the influence of the judiciary institutions. The access to the labour market considerably favours EU immigrants, whereas it is quite close for non-EU ones. The partial reopening of frontiers initiated by the policies of 2006 will probably change the situation, but only in a limited way as it only concerns high-qualified immigrants or those working in the economic sectors that undergo labour shortages.

One of the major changes of these last ten years has been the development of anti-discrimination policies. On the contrary, the issue of immigrants' political rights has given rise to many debates, without leading to any change, since it is still very controversial in the public and political debates.

Regarding the cultural dimension, assimilationist trends seem to have reappeared over the last years. The legislation introduced new cultural requirements to access the resident permit and made the CAI an obligation rather than an opportunity for immigrants. Some of the cultural requirements (as well as some of the new crimes defined in the immigration legislation, such as polygamy or violence against minors causing mutilations) are clearly aimed at Islam, which shows the quite strong mistrust towards Islam that prevails today in France. In addition, the traditional reluctance towards group-related rights and the principle of "laïcité" are preventing the official recognition of rights for Muslim and other minority groups in the spheres of education, religious practices and promotion of specific cultures through the media.

Regarding integration, the policies that have been implemented recently mainly concern the newly arrived immigrants, who benefit from new information services and language training. This has been achieved at the national level. But these policies are quite ambiguous since they also go together with a strengthening of the cultural requirements for accessing the community. As for people of ethnic minorities, the only specific policies that concern them – at the national level and, more rarely, at the local one, in Lyon and Villeurbanne for example – are anti-discrimination ones. Such policies are more in line with the traditional individualistic vision of equality in France, compared to affirmative actions or other policies granting a preferential treatment to ethnic minority people. Immigrants' integration policies are a responsibility of the national power above all. The municipalities' policies are generally very limited in this field. In addition, they are also mixed-up with social exclusion policies.

The participation mechanisms have been relatively developed for citizens over the last years, in particular through citizen assemblies in big cities. Immigrants' political representation is generally very low, except in Lyon where a specific structure does exist to this aim. Generally, minority organizations are not really involved in local policies nor supported by the local powers, especially because they are based along community lines.

Finally, it seems that two major elements have limited the policies specifically directed to immigrants and ethnic minorities in France, apart from anti-discrimination rights. The first one is the weight of the French "model of integration", which prevents from adopting group-based policies. The second one is the political audience of the radical right party, the "Front National", and more generally the quite widespread hostility to immigrants and their descendants in the public opinion. This implies that all the reforms that clearly bring advantages to immigrants and ethnic minorities are not very beneficial politically and can even be costly (Guiraudon, 2005).

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## **COUNTRY AND CITY**

Hungary, Budapest<sup>24</sup>

## **INTRODUCTION**

Immigration became an important phenomenon in Hungary only at the end of the 1980s; even afterwards Hungary remained a country of relatively low level of immigration related to other EU countries. From the beginning, the majority of migrants have arrived from Romania, Ukraine, Slovakia, Serbia, Croatia (mostly from ethnic Hungarian communities across the borders of contemporary Hungary); among the immigrants, Chinese, Germans, Russians, Vietnamese and US citizens are also represented on smaller proportions. The Muslim population residing in Hungary is of a very moderate size.

After 2000 the major sources of migration constitute labour migration, the secondary sources being that of study and family reunion (according to residence permit applications). Immigration figures have increased in the early 1990s, these trends later have stabilized at a lower level, in the last 6 years also showing only minor increases in the number of applications for short and long term residence, and for Hungarian citizenship. The number of asylum applications has been decreasing in the last few years.

Regarding illegal migrants, they are estimated as 30% of the total number of legal migrants, most of them are weekly or monthly commuters from the neighboring countries doing unskilled labour (cleaning, nursing, construction).

The main current issues of public debate related to immigration are the following:

1. Diaspora politics of ethnic Hungarians across the borders: public political debates are centered around the relationship between the Hungarian state and Hungarian communities outside Hungary – in the debate the migration of ethnic Hungarians to Hungary constituting one set of heated and largely politicized topics.
2. The recent EU accession of Romania and Bulgaria 1<sup>st</sup> January 2006: related to this, debated topics concern current government measures and future prospects related to labour migration and border policing.

There are two major laws regulating the immigration process: Act LV. of 1993 On Hungarian Citizenship describing conditions of naturalization of immigrants; and the Act XXXIX of 2001 On the Entry and stay of Foreigners which regulate procedures related to visa, short-term residence permits and long term settlement permits. These laws define three major groups of immigrants: EEA-nationals, ethnic Hungarians with Hungarian origin, and non ethnic Hungarians.

Regarding ethnic Hungarians, in 2005 the modification of Act LV of 1993 has simplified the acquisition of Hungarian citizenship. Regarding 2006 changes, some measures had opening effects indirectly for migrants (related to local election participation, compensation for victim

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<sup>24</sup> The report for the city of Budapest has been prepared by Ildikó Zakariás, a member of the Hungarian LOCALMULTIDEM team.

of crimes for refugees, and student credit assignment for refugees, settled migrants and EEA-nationals). A restrictive approach in migration management has been continuous in Hungary, and labour migration has remained a marginal issue on the level of acts and decrees.

Regarding future changes, Act LV of 1993 will be soon replaced by the Act I of 2007 aiming to transpose the EU directives on the free movement of EU nationals and Act II of 2007 to control the movement of third country nationals; executive rules have not been added yet to these new acts. (In the present report the situation in operation in October 2006 is described.)

When speaking about interrelatedness of immigration and minority questions, it is important to note that in Hungary ethnic and national minorities include 13 recognized minority groups who have been residing on the territory of Hungary for at least 100 years. (These are the Roma, German, Croatian, Slovac, Romanian, Ukrainian, Serbian, Slovene, Polish, Greek, Bulgarian, Rusian, and Armenian minorities.) Since the Act on National and Ethnic Minorities was passed in 1993, these recognized minorities have the right to establish their own minority self-governments, at the local and national level. These are elected bodies representing the interests of all persons belonging to that minority on that settlement or in the country; their major scope being to assure cultural autonomy for the respective group. Their major duties are founding and maintaining institutions especially in education, media, and other culture-related fields, and also have veto rights in national and local governmental decrees affecting the minority group in cultural aspects. In cases when more than 50% of the members of the local government belong to a certain minority group, the local government can declare itself a minority local government, which assures territorial autonomy.

Thus the great majority of recognised minorities in Hungary are not immigrants. However there is a small number of immigrants (e.g. Slovac, Romanian, German), who by ethnicity may belong to one of these recognised minorities, and may indirectly benefit from the cultural provisions that were established not for immigrants, but for these recognised minorities.

## **INSTITUTIONAL POS INDICATORS**

### **I – INDIVIDUAL RIGHTS**

#### **1. ACCESS TO THE COMMUNITY**

##### ***Types of permits***

**Residence permit (Short term permit):** depending on the purpose of stay 7 types of residence permits can be issued: employment (valid for a maximum of 4 years, renewable on occasion for 2 years, which is a maximum of 4+2 years), family reunion (valid for a maximum of 2+2 years), income earning activity (valid for a maximum of 4 +2 years), medical treatment (valid for a maximum of 2+2 years), official (issued for a maximum of 2 years, then renewed for 2 years every time), studies (studies in higher education: a maximum of 2+2 years; preparation for higher education: 1+1 years), and visits (valid for a maximum of 2+2 years).

When applying for any type of permit one has to certify the purpose of stay, accommodation and livelihood, health insurance coverage and existence of conditions of continuation of

journey or return (with Act I. of 2007 and Act II. of 2007 types and conditions of issuance of permits will be changed).

**Settlement permit (Long term permit)** allows for residency in Hungary for unspecified duration. Settlement permit holders are entitled for the rights assigned to holders of residence permits and for further rights assigned by specific legislation; they also, have the right to exit and re-enter the territory of Hungary. Financial coverage and accommodation has to be certified at application.

**Immigration permits (Long term permit)** have been replaced by settlement permits in 2002 with less rights than the former, which rights have been modified by legislation at several occasions. Replacement here means that starting from 2002 new immigration permits could not be issued; the earlier issued permits and the rights assigned to them remained valid (the number of immigration permit holders was 52,669 on 31 December 2006, according to figures from the Office of Immigration and Nationality).

**a) Short-term permits**

**1. Automatic acquisition of the permit if mother or father of a national minor child**

Neither the financial contribution to the child's raising nor that the child is unmarried are required to obtain the permit. However there are other conditions that should be fulfilled in order to obtain the permit:

Residence permit: The parent who exercises the right of custody of a national minor shall be eligible for residence permit with the aim of family reunion on the condition that he/she

- possesses a valid travel document;
- possesses a visa, or residence permit (for family reunion, or exceptionally, other type of visa or residence permit, if the purpose of stay has been changed to family reunion)  
(except for cases of international contracts e.g. for EEA nationals)
- he/she can certify: the purpose of residence, the guaranteed accommodation and livelihood in Hungary, the capacity to cover medical treatment, as well as the existence of the conditions making their leaving the country possible.
- Pays the application fee of 5000 HUF (1500HUF for EEA nationals)
- Hands in the application 30 days before the expiry of legal residence (15 days for EEA nationals)<sup>25</sup>

Act XXXIX of 2001, 4/1, 14/1, Gov. Decree 170/2001. (IX. 26.), 11/8

**Scores:**

**General score: 0**

**Ethnic Hungarians: 0**

**Chinese: 0**

**Muslims: 0**

**2. Automatic acquisition of the permit if marriage with a national**

The spouse of a national is eligible for residence visa or residence permit with certain conditions; the issuance of the permit does not depend on the length of marriage. However there are further conditions that should be fulfilled.

<sup>25</sup> Source for questions 1-10, 12-18, 20-26, 29, 31, 40, 41, 42: [www.bmbah.hu](http://www.bmbah.hu)

Residence permit: see q. 1.
<p><b>Scores:</b></p> <p><b>General score: 0</b></p> <p><b>Ethnic Hungarians: 0</b></p> <p><b>Chinese: 0</b></p> <p><b>Muslims: 0</b></p>
<p><b>3. Economic resources requirement</b></p> <p>In order to get a residence permit, one has to certify the existence of financial coverage of his/her livelihood in Hungary, independently of the goal of the stay. The certificates that might be sufficient during the procedure are specified in the law; however in none of the cases is a precise financial threshold set for the applicants. Therefore, applications are rejected or accepted depending on personal judgement of the officer in charge, which causes a high level of uncertainty among immigrants and leaves space for corruption.<sup>26</sup></p>
<p><b>Scores:</b></p> <p><b>General score: -1</b></p> <p><b>Ethnic Hungarians: -1</b></p> <p><b>Chinese: -1</b></p> <p><b>Muslims: -1</b></p>
<p><b>4. Link between work regime and permit regime</b></p> <p>The work contracts are required to obtain a residence permit or residence visa: In order to apply for an employment residence permit or visa, one must possess a valid work permit and the labour agreements signed in accordance with it, or with an agreement aiming at employment in case of an activity not requiring the possession of a work permit.</p> <p>Foreigners in Hungary shall only be engaged in employment – except for a few cases (e.g. if the foreigner is a refugee or possesses a settlement or immigration permit, or is EEA national, or in cases covered by international contracts, and in other cases covered by law) – in possession of a valid work permit and residence visa or residence permit for employment purpose. The work permit should be obtained by the employer.</p>
<p><b>Scores:</b></p> <p><b>General score: -1</b> (obligation to have a contract or to certify other purposes of stay than work)</p> <p><b>Ethnic Hungarians: -1</b></p> <p><b>Chinese: -1</b></p> <p><b>Muslims: -1</b></p>
<p><b>5. Grounds for withdrawal:</b></p> <p>a. proven fraud in the acquisition of permit</p> <p>b. sentence for serious crimes</p> <p>c. actual and serious threat to public policy or national security</p> <p>d. sufficient level of resources</p>
<p>The residence permit should be withdrawn if the purpose of stay has been altered, or no longer exists. Exceptions are when the purpose of stay has been altered on account of medical treatment, family reunion or some other special circumstances; in these cases residence permit should be renewed.</p>
Act XXXIX of 2001, Section 17, Gov. Decree 170/2001. (IX. 26.), 21/5/a

<sup>26</sup> Luca Váradi: Immigration Business: Profit-oriented Institutions in the Field of Immigration, Thesis in sociology, Eötvös Loránd University, Budapest, 2006

**Scores:****General score: -1****Ethnic Hungarians: -1****Chinese: -1****Muslims: -1****b) Long-term permits****6. Automatic acquisition of the permit if mother or father of a national minor child**

Certifying accommodation and livelihood is necessary for obtaining settlement permit in all cases of immigrants.

Ethnic Hungarians<sup>27</sup>: The parent who lives together with a national minor shall be eligible for settlement permit on the condition that

- he/she has a residence permit or residence visa, and
- the accommodation and livelihood is assured in Hungary.
- pays the fee of 8000 HUF

Non-ethnic Hungarians: The parent who lives together with a national minor shall be eligible for settlement permit on the condition that

- he/she has been legally residing in Hungary for at least 1 year,
- the accommodation and livelihood is assured in Hungary
- pays the fee of 8000 HUF

EEA-nationals: EEA citizen possessing a residence permit is eligible for settlement in Hungary.

**Scores:****General score: 1****Ethnic Hungarians : 1****Chinese : 1****Muslims : 1****7. Automatic acquisition of the permit if marriage with a national**

Certifying accommodation and livelihood is necessary for obtaining settlement permit in all cases of immigrants.

Ethnic Hungarians: The spouse of a national shall be eligible for settlement permit on the condition that

- he/she has a residence permit or residence visa, and
- the accommodation and livelihood is assured in Hungary.
- pays the fee of 8000 HUF

Non-ethnic Hungarians: The spouse of a national shall be eligible for settlement permit on the condition that

- the marriage has been contracted at least 2 years prior to the application
- the accommodation and livelihood is assured in Hungary

<sup>27</sup> Ethnic Hungarians: The law prescribes a legal procedure differently for mainly 3 groups: (1) ethnic Hungarians, (2) nationals of the EEA, and (3) persons not (1) and (2).  
Ethnic Hungarians are defined as persons claiming to be Hungarians, having an ascendant who was Hungarian citizen

- pays the fee of 8000 HUF

EEA-nationals: EEA citizen possessing a residence permit is eligible for settlement in Hungary.

**Scores:**

**General score: 1**

**Ethnic Hungarians : 1**

**Chinese : 1**

**Muslims : 1**

#### **8. Required minimum time of habitual residence**

For ethnic Hungarians and EEA nationals there is no required minimum-time in order to be eligible for settlement permit.

Non-ethnic Hungarians should reside legally in Hungary continuously for 3 years. The criteria of 3 years of residence shall not be enforced if the applicant has an extended stay visa or residence permit, and:

- a) is applying for permanent residency (settlement permit) on the grounds of family reunion, except for spouses, on condition of having been legitimately residing in Hungary for at least one year in a family with a Hungarian citizen, or with a foreign national holding permanent residency or an immigration permit or who was granted refugee status;
- b) is applying for permanent residency as a spouse, if the marriage was contracted at least two years before the application was submitted.

The higher education studies do not count in this period. Continuous residence means no more than 90 days altogether spent abroad yearly.

**Scores:**

**General score: 1**

**Ethnic Hungarians : 1**

**Chinese : 1**

**Muslims : 1**

#### **9. Economic resources requirement**

In order to get a settlement permit, one has to certify the existence of financial coverage of his/her livelihood in Hungary. The certificates that might be sufficient during the procedure are specified in the law, however in none of the cases is a precise threshold set for the applicants. Therefore, applications are rejected or accepted depending on personal judgement of the officer in charge, which causes a high level of uncertainty among immigrants and leaves space for corruption<sup>28</sup>.

**Scores:**

**General score: -1**

**Ethnic Hungarians : -1**

**Chinese : -1**

**Muslims : -1**

#### **10. Percentage of given permits over the total number of applications- National level**

<sup>28</sup> Váradi 2006

**Applications for settlement permits: type of decisions in percentage (2002-2006)**

Type of decision	2002	2003	2004	2005	2006
<b>authorised</b>	<b>47,52</b>	<b>46,33</b>	<b>53,22</b>	<b>55,34</b>	<b>52,54</b>
refused	8,6	8,35	10,05	9,65	12,24
abrogated	0,73	0,04	0,16	0,23	0,46
To proceed	43,15	45,28	36,57	34,78	34,76
Total	100	100	100	100	100
Total (numbers)	4 653	7 878	9 360	9 233	10 039

The data for each group are not available.

Source: [www.bmbah.hu](http://www.bmbah.hu), OIN

**Scores:**

**General score: 0**

**Ethnic Hungarians : N.A.**

**Chinese : N.A.**

**Muslims : -N.A.**

**11. Grounds for withdrawal:**

- a. proven fraud in the acquisition of permit
- b. sentence for serious crimes
- c. actual and serious threat to public policy or national security
- d. sufficient level of resources

According to Act XXXIX of 2001 / 23. 1/b,c,d and 2/a,b contain further requirements than a,b,c and d:

(1) The Agency or the regional immigration authority may revoke a settlement or immigration permit if

- a) any information or data provided to the immigration authority in the application is false or untrue;
- b) the circumstances based on which the authorization was issued have changed to an extent that the criteria for authorization is no longer satisfied, and if a period of five years has not elapsed from the date of issue of the residence or immigration permit;
- c) it was issued on the grounds of family reunion, and the marriage was dissolved within three years from receipt of the authorization for reasons other than the spouse's death, or if the foreign national's custody has ceased, unless the person in question has lived in Hungary for four years under resident or immigrant status;
- d) the foreign national left the territory of the Republic of Hungary and did not return for over six months, or is repeatedly or permanently engaged in employment abroad.

(2) The immigration authority shall revoke its authorization

- a) that was granted to a minor and the immigration authority has revoked the residence permit of the foreign national parent having custody, and conditions for the further residence of the minor at the other parent of custody or in a state institution are not ensured;
- b) that was granted on the grounds of family reunion and the Hungarian citizen spouse has left the territory of the Republic of Hungary with the intention to settle abroad, or legal grounds for the foreign national spouse's stay in Hungary are no longer satisfied;
- c) if the foreign national to whom it was issued is expelled or is placed under restriction of entry and stay.

Thus unemployment is a sufficient ground of withdrawal if at the issuance of the permit livelihood in Hungary was proved on the basis of the salary, and without employment

livelihood in Hungary is not assured further.

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1**

**Chinese: -1**

**Muslims: -1**

**12. Expulsion precluded**

**a. after 20 years of residence as a long-term residence permit holder**

**b. in case of minors**

**c. residents born in the host country or admitted before they were 10, once they have reached the age of 18**

None of these conditions hold (unaccompanied minors can only be expelled if their family unification or institutional care is secured in the destination country)

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1**

**Chinese: -1**

**Muslims: -1**

**c) Access to nationality**

**13. Eligibility for second and third generation immigrants (jus soli)**

According to Section 4 of Act LV of 1993 on Hungarian Citizenship:

(1) On application, a non-Hungarian citizen may be naturalized if:

a) the person resided in Hungary continuously over a period of eight years preceding the submission of the application;

b) according to Hungarian law, the person has a clean criminal record, and at the time of the assessment of the application, there are no criminal proceedings in progress against him before a Hungarian court;

c) his livelihood and residence are assured in Hungary;

d) his naturalization does not violate the interests of the Republic of Hungary; and

e) provides proof that he has passed the examination in basic constitutional studies in the Hungarian language, or that of being exempted by virtue of this Act.

(2) A non-Hungarian citizen who resided in Hungary continuously over at least a period of three years preceding the submission of the application, and if the conditions defined in subsection (1), paragraphs b) to e) are satisfied may be naturalized on preferential terms, provided that

a) the person has lived in a valid marriage with a Hungarian citizen for at least three years, or the marriage has been terminated through the spouse's death;

b) the person's minor child is a Hungarian citizen;

c) the person has been adopted by a Hungarian citizen, or

d) the person has been recognized as a refugee by a Hungarian authority.

(3) If the requirements set out in Paragraphs b)-e) of Subsection (1) are satisfied, upon request a non-Hungarian citizen claiming to be a Hungarian national who lives in Hungary and whose ascendant was a Hungarian citizen, may be naturalized on preferential terms.

(4) A non-Hungarian citizen who was domiciled in Hungary for at least five consecutive years before the date of submission of the application, and if the conditions defined in Paragraphs b)-e) of Subsection (1) are satisfied, may be naturalized on preferential terms

if the applicant:

- a) was born in the territory of Hungary;
- b) had established residence in Hungary before reaching legal age;
- c) is stateless.

(5) The criteria of continuous residence in Hungary, for the periods of time defined in Subsections (1)-(4), may be waived in the case of minors, if the minor's petition for naturalization is submitted together with that of the parent's or if the minor's parent was granted Hungarian citizenship.

(6) Children of minor age may be granted Hungarian citizenship, if adopted by a Hungarian citizen.'

[www.bmbah.hu](http://www.bmbah.hu)

The eligibility for second and third generation immigrants for Hungarian citizenship is the same as for first generation immigrants, with the exception that the required time of continuous legal residence in Hungary is shorter: 5 years instead of 8 in case of non-ethnic Hungarians. The authorities may disregard the requirement of length of time if applicant is a minor applying together with a parent, or the parent already obtained Hungarian citizenship.

(Due to shortages of the relevant law on registration, children of settled migrants might not be recorded in the population registry causing difficulties in the naturalization procedure.)

Ethnic Hungarians may be naturalized on preferential terms. The naturalization of second and third generation ethnic Hungarians has the same conditions as first generation ethnic Hungarian immigrants.

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1**

**Chinese: -1**

**Muslims: -1**

#### **14. Marriage with a national**

On the general conditions of naturalization see item 13.

The eligibility for spouses of Hungarian nationals for Hungarian citizenship is the same as in a general case, with the exception that the required time of continuous legal residence in Hungary can be shorter: 3 years instead of 8 in case of non-ethnic Hungarians, if the length of marriage is at least 3 years.

Ethnic Hungarians may be naturalized on preferential terms, regardless the length of residence.

**Scores:**

**General score: 1**

**Ethnic Hungarians: 1**

**Chinese: 1**

**Muslims: 1**

#### **15. Required minimum time of habitual residence**

General conditions of naturalizations: see item 13.

Ethnic Hungarians: In case of Ethnic Hungarians, foreigners may be naturalized regardless of length of residence.

Non-Hungarian foreigners: In the general case, the non-Hungarian foreigner may be naturalized if the length of residence is at least 8 years before application. The required minimum length of residence is 5 years in case of persons born in Hungary or established residence in Hungary before legal age or stateless persons.

The required minimum length of residence is 3 years in case that

- the person has lived in a valid marriage with a Hungarian citizen for at least three years, or the marriage has been terminated through the spouse's death;
- the person's minor child is a Hungarian citizen;
- the person has been adopted by a Hungarian citizen, or
- the person has been recognized as a refugee by a Hungarian authority

**Scores:**

**General score: 1** (Ethnic Hungarians represent the major part of immigrants)

**Ethnic Hungarians: 1**

**Chinese: 0**

**Muslims: 0**

#### **16. Economic resources requirement**

In order to get naturalized, one has to certify the existence of financial coverage of his/her livelihood and residence in Hungary. The certificates that might be sufficient during the procedure are specified in the law, however in none of the cases is a precise threshold set for the applicants. Therefore, applications are rejected or accepted depending on personal judgement of the officer in charge, which causes a high level of uncertainty among immigrants and leaves space for corruption.

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1**

**Chinese: -1**

**Muslims: -1**

#### **17. Percentage of approved naturalizations over the total number of applications - National level**

##### **Applications for naturalizations: type of decisions in percentage (2002-2006)**

<b>Decisions of the State president on nationality application</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Re/naturalized persons	89,26	91,74	91,86	95,39	93,93
Rejected applicants	10,74	8,26	8,14	4,61	6,07
Total	100,00	100,00	100,00	100,00	100,00
Total (numbers)	4 358	6 081	6 169	10 463	6 988

The data for each group are not available.

**Scores:**

**General score: 1**

**Ethnic Hungarians : N.A.**

**Chinese : N.A.**

**Muslims : -N.A.**

#### **18. Grounds for withdrawing status**

**a. proven fraud in the acquisition of citizenship**

**b. actual and serious threat to public policy or national security**

Hungarian citizenship may be revoked if it was obtained through unlawful means, in particular, by the recipient's conduct aimed at misleading the authorities by disclosing false or untrue data, or by concealing any consequential data or information. Hungarian citizenship may not be revoked after ten years from the date it was awarded.

**Scores:**

**General score: 1**

**Ethnic Hungarians: 1**

**Chinese: 1**

**Muslims: 1**

## **2. FAMILY REUNION**

### **19. Eligibility for legal residents**

There is no time limit established by law regarding the required length of legal residence of the sponsor. Regarding the length of time for the applicant, there is no time limit in case of residence permit, and it is 1 year in case of the settlement permit.

Residence permit for family reunion is eligible for family members of a foreign national who possesses residence or settlement permit, or having a refugee status if his/her family member

- has a visa
- accommodation and livelihood is assured
- health insurance or financial coverage of health costs is assured.

Settlement permit is eligible for family members of a foreign national possessing settlement permit or having a refugee status if the family member

- whose accommodation and livelihood is assured
- has resided legally on the territory of Hungary for at least 3 years. This time limit is not required in case the person lived together in a family for at least 1 year with a Hungarian citizen, refugee, or a foreign person possessing settlement or immigration permit, as daily life, or applies for the permit as a spouse of the foreign national and the marriage has been established 2 years prior to the application.

**Scores:**

**General score: 1**

**Ethnic Hungarians: 1**

**Chinese: 1**

**Muslims: 1**

### **20. Economic resources requirement**

In case of family reunion, livelihood has to be certified. The certificates that might be sufficient during the procedure are specified in the law, however in none of the cases is a precise threshold set for the applicants. Therefore, applications are rejected or accepted depending on personal judgement of the officer in charge, which causes a high level of uncertainty among immigrants and leaves space for corruption.

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1**

**Chinese: -1**

**Muslims: -1**

### **21. Duration of validity of permit**

The family member is eligible for a residence permit for family reunion of the same duration as the sponsor's residence permit. The spouse of the sponsor might be eligible to stay longer than the sponsor,

- if 5 years has passed since the first issuance of the permit, or
- if a minor child of Hungarian nationality has been born, or
- the spouse can certify a purpose of residence other than family reunion

The family member of a foreigner having a settlement permit is eligible for residence permit and – after 1 year of residence – for settlement permit.

However, the residence or the settlement permit is defined also by the purpose of stay – therefore it is not equal to the sponsor's permit: the former is a permit for family reunion, the latter might be any other type of permit.

**Scores:**

**General score: 0**

**Ethnic Hungarians: 0**

**Chinese: 0**

**Muslims: 0**

**22. Grounds for withdrawing the status:**

- a. Public policy or security major threat
- b. Proven fraud in the acquisition of permit (inexistent relationship or misleading information).
- c. Break-up of family relationship (before three years)

Except for residence permit issued on humanitarian grounds, residence permit shall be revoked if

- a) the foreign national in question is subject to expulsion or restriction of entry and stay;
- b) the foreign national in question does not have a valid extended stay visa or authorization for staying;
- c) the purpose of stay of the foreign national in question has been altered - with the exception specified in Subsection (3) - or no longer exists.

(3) The residence permit of a foreign national whose purpose of stay has been altered on account of medical treatment, family reunion or some other special circumstances may be renewed.

Settlement permit:

Other than a,b,c:

According to Act XXXIX of 2001 / 23, there might be other conditions then a, b, c under which the settlement permit is withdrawn:

1/b: break up of family realtionships within 5 years

1/c: if the foreign national's custody has ceased within 4 years

1/d: the foreign national left the territory of the Republic of Hungary and did not return for over six months, or is repeatedly or permanently engaged in employment abroad

2/a: the minor's parent's residence permit has been withdrawn and conditions for the further residence of the minor at the other parent of custody or in a state institution are not ensured.

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1**

**Chinese: -1**

**Muslims: -1**

**23. Right to autonomous residence permit**

According to Act XXXIX of 2001, 14/B, there is right to autonomous residence permit for the spouse after 5 years of legal residence since the issuance of the residence permit for the first time.

Children reaching the age of majority are eligible for further residence permit if they possessed residence permit for purpose of family reunion for at least 5 years before application, or the conditions of further stay are assured.

**Scores:**

**General score: 0 (both for partners and children)**

**Ethnic Hungarians: 0**

**Chinese: 0**

**Muslims: 0**

#### **24. Percentage of entrances in the territory through family reunion – National level**

	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>
Other	86,95	85,41	85,44	83,11	81,83
Family reunion	13,05	14,59	14,56	16,89	18,17
Total	100,00	100,00	100,00	100,00	100,00

Percentage of residence permit applications on basis of family reunion compared to the total number of applications

Source: [www.bmbah.hu](http://www.bmbah.hu), OIN

The data are not available per group.

#### **- Over the total number of applications**

**Score:-1**

## **1. SOCIAL AND ECONOMIC RIGHTS**

### **a) Labour market access**

#### ***- Short-term permits***

#### **25. Access to employment**

Among different types of residence permits one has the right to employment if he/she has a residence permit for employment, residence permit for studies, or residence permit for family reunion. With other types of residence permits one does not have the right to work. Even if one has one of these types of residence permits, in the majority of cases a work-permit is required. The work permit should be obtained by the employer. Work permit is not required in case of refugees, or persons having immigration permit or permit for permanent residency (that is settlement permit), and in cases of certain international work contracts, or international employers; for persons enrolled to elementary, secondary or higher education in Hungary; certain types of research work and scholarships, certain type of religious activities, and in several other cases specified by Ministerial Decree 8/1999. (XI.10.). In any other case (e.g. also for family members of nationals, or family members of foreigners residing in Hungary) work permit is required for employment.

If a work contract is required, in the majority of cases the foreigner has the right to work only if no Hungarian or EEA national is available for the given position.

Civil servants (e.g. persons employed by the Prime Minister's Office, ministries and government offices, administration offices, national offices, local government offices, notaries, and other bodies specified by Act XXIII of 1992 on Civil servants.) can only be Hungarian citizens.

Public servant posts (those who are employed by the state, but are not civil servants, e.g. majority of teachers, doctors, or other posts in state institutions, that do not fall into the category of civil servants): may be available also for foreigners, however ministries have the right to define those posts that shall be eligible only for Hungarian citizens.

Source: Decree 8/1999 (XI. 10.) of Min. of Social and Family Affairs on the Permission of the Employment of Foreigners in Hungary

Act XXIII of 1992 on Civil servants.

**Scores:****General score: -1****Ethnic Hungarians: -1****Chinese: -1****Muslims: -1****26. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit of stay**

The application may be rejected or the renewal refused, or the permit withdrawn if the applicant is not capable to prove his/her purpose of stay any longer. The termination of the work contract might result in the withdrawal of the residence permit if the applicant's purpose of stay originally has been employment, and no other exceptional reasons can be certified (e.g. health care, or family reunion). In case of residence permit for studies, or family reunion, the termination of work contract would not result in the withdrawal/refusal of permit of stay.

**Scores:****General score: -1****Ethnic Hungarians: -1****Chinese: -1****Muslims: -1*****- Long-term residence*****27. Access to employment**

According to the Act 1991. IV. on the promotion of occupation and assistance of unemployed the Minister of labour may define in a decree certain occupations that are not available for foreigners with regard to the structure of unemployment in Hungary. According to this act, private as well as public professions might become banned for foreigners. EEA citizens are exempted from this ban. Civic servants can be only Hungarian citizens, while public servants can be also foreigners, but also in this case ministerial decrees may ban certain positions (for the difference between both statuses see item 25).

**Scores:****General score: -1****Ethnic Hungarians: -1****Chinese: -1****Muslims: -1****28. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit of stay**

Settlement permit is not linked to employment, only to the financial coverage of livelihood in Hungary. The termination of a foreigner's work contract would result in refusal/withdrawal of settlement permit indirectly, only if the wage from employment was the only means of certifying the financial security of the applicant. See Gov. Decree 170/2001. (IX. 26.), 36/1.

**Scores:****General score: -1****Ethnic Hungarians: -1****Chinese: -1****Muslims: -1****b) Welfare state access*****- Illegal immigrants***

## **29. Access to social security, social assistance and healthcare for illegal immigrants**

Every person in Hungary has the right for basic and emergency health assistance, including life saving activities or activities preventing irrevocable or serious health damage.

Act CLIV of 1997.

According to Act XXXI of 1997 on Child-protection and Administration of Guardianship foreign children are entitled for certain assistance if the omission of temporary measures on the part of authorities would result in endangering the child or would cause unavoidable damage.

### **Scores:**

**General score: 0**

**Ethnic Hungarians: 0**

**Chinese: 0**

**Muslims: 0**

### *- Short-term permits*

## **30. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support**
- b. minimum housing support**
- c. family and child benefits**
- d. assistance in case of illness**
- e. pregnancy and maternity care**
- f. long-term care**

According to Act III of 1993 on Social Benefits, citizens of countries signing the European Social Chart are entitled to emergency care (temporary assistance, food and lodging) offered by the local governments. (According to resolution of the Constitutional Court, local governments can not be obliged to accomplish this task which results in an ambivalent situation)

According to Act III of 1993, EEA citizen employees, entrepreneurs and their families possessing residence permit are entitled to social benefits: child-raising benefit, and financial accomodations for social dependence, such as old-age benefit, regular social benefit for indigent persons with health damage, or for persons without occupation, housing assistance, nursing assistance, transitional assistance, funeral assistance.

(Persons whose working abilities have been altered, are entitled for transitional assistance who had tenure of office long enough for old-age pension, or are reaching old-age pension age in 5 years, or have been disabled at 50% according to the National Health Insurance Fund.)

According to Act XXXI of 1997 on Child-protection and Administration of Guardianship EEA citizen employees, entrepreneurs and their families are entitled to the benefits specified in the law if possessing residence permit.

According to Act XXXI of 1997 on Child-protection and Administration of Guardianship foreign children are entitled to certain assistance if the omission of temporary measures on the part of authorities would result in endangering the child or would cause unavoidable damage.

According to Act LXXXIV of 1998 on Family and Child Benefits EEA nationals are entitled to the benefits specified in law, if they possess residence permit.

Persons are entitled to healthcare if they have an insurance, (possess a Social Insurance Identifying Sign number (TAJ-number)), or the case is regulated by international contracts. (Act 154 of 1997 on Healthcare) In any other case only emergency care is provided.

According to Gov. Decr. 25 of 1998 refugees, temporarily protected persons and applicants are entitled to the following services:

- Refugees: accommodation and boarding at reception centers or other equal accommodation, health care, school enrolment benefit, free Hungarian language education, regular living allowance, school enrolment benefit, refunding of costs of translation of official documents, house rent subsidy, one-time settlement allowance, settlement subsidy, support for leaving the country
- Refugee applicants: accommodation and boarding at reception centers or other equal accommodation, health care, school enrolment benefit, support for leaving the country
- Temporarily protected persons: health care, school enrolment benefit, house rent subsidy, refund of working ability health examination, refund of the costs of nursery / kindergarten / school meals.

**Scores:**

**General score: 0**

**Ethnic Hungarians: -1 (except those from Slovakia: 1)**

**Chinese: -1**

**Muslims: -1**

*- Long-term residence permits*

**31. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support
- b. minimum housing support
- c. family and child benefits
- d. assistance in case of illness
- e. pregnancy and maternity care
- f. long-term care

Equal access with nationals for these and possibly other social benefits.

However, according to Act XXXIX of 2001 and Gov. Decr. 170/2001 36/1/b in case of foreigners having settlement permits applying for social benefits, the settlement permit might be withdrawn if the permit has been issued less than 5 years before applying for the benefits.

**Score: 1**

**4. ANTI-DISCRIMINATION RIGHTS**

**32. Legislation against ethnic discriminations: types of actions**

According to Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities, direct negative discrimination, indirect negative discrimination, harassment, unlawful segregation, retribution, and any orders issued therefore mean a breach of the principle of equal treatment. Thus actions as well as words are equally specified in the law as hurting the equal opportunities principle.

**Score: 1**

**33. (if a legislation exists) Types of sanctions in case of racially discriminatory hiring**

If the Authority has established that the provisions ensuring the principle of equal treatment have been violated, they may

- a) order that the situation constituting a violation of law be eliminated,
- b) prohibit the further continuation of the conduct constituting a violation of law,
- c) publish its decision establishing the violation of law,

d) impose a fine,  
e) decide on the fees of procedure that should be paid by the party violating the law.  
Imprisonment is not included among the sanctions of negative discrimination.

**Score: -1**

#### **34. Public structures dealing with ethnic discriminations**

The Equal Treatment Authority was established by Act CXXV of 2003 on equal treatment and the promotion of equal opportunities as set in the Government Decree No 362/2004 (XII.26.).

The Authority started its work on the 1st February 2005. It is an independent organization, which was set up by the Hungarian Government to receive and deal with individual and public complaints about unequal treatment and to implement the principles of equality and non discrimination. The Authority works under the direction of the Government, however the latter may not instruct the Authority when it performs its tasks under the Equal Treatment Act. This provision intends to guarantee the Authority's independence from the Government. The Equal Treatment Act required the setting up of an advisory body to assist the Authority with issues of strategic importance.

The Board consists of experts with outstanding experience of asserting the right of equal treatment. On 30th June 2005 the 6-members Board was appointed after an extensive consultation process, in the course of which 63 NGOs nominated 24 candidates. The members are well known in professional circles as truly independent experts in the field.

The Board has co-decision powers with the Authority on the adoption of proposals for Government decisions and draft legislation relating to equal treatment and on reporting in general.

The Authority consists of 17 members including the President, Vice President, the Heads of the Law, the Administrative and Finance departments.

The staff consists of lawyers and experts of political science, public administration and EU affairs.<sup>29</sup>

**Score: 1**

## **5. POLITICAL RIGHTS**

#### **35. Right to vote in local elections**

According to the Constitution of the Republic of Hungary (Par. 70) among foreigners in Hungary EU citizens living in Hungary, refugees, and persons possessing immigration or settlement permit are eligible to vote in local elections.

Thus, EU citizens having a residency in Hungary have the right automatically; for other foreigners the right to vote is linked to the type of permit, i.e. it is linked implicitly to the required length of stay of obtaining the permit. This required time frame varies according to several factors, such as purpose of stay, or being ethnic Hungarian.

**Scores:**

**General score: 0**

**Ethnic Hungarians: 0 (except those from Slovakia: 1)**

**Chinese: 0**

**Muslims: 0**

#### **36. Right to stand for local elections**

Among foreigners in Hungary EU citizens having a Hungarian residency are eligible to stand for local elections except for the position of mayors, who can only be Hungarian citizens.

<sup>29</sup> [http://www.egyenlobanasmod.hu/index.php?g=ebh\\_aboutH.htm](http://www.egyenlobanasmod.hu/index.php?g=ebh_aboutH.htm)

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1 (except those from Slovakia:0)**

**Chinese: -1**

**Muslims: -1**

## **II – CULTURAL/GROUP RIGTHS**

To understand cultural/group rights indicators' meaning in case of ethnic Hungarians, it is important to note that ethnic Hungarian immigration can be considered as ethnic return migration, or migration of ethnic unmixing (Brubaker, 1998)<sup>30</sup>. Migrants are moving towards a country where they consider themselves, and are considered by others to belong to on the grounds of common ancestry and common culture; their migration is thus often perceived as return to the 'motherland'. Thus, they do not form a minority group in Hungary: their cultural sameness with the autochtonous population is implicitly assumed on the level of institutions and organizations, ambivalence around their sameness/difference does appear only on the level of public discourses or personal narratives.

### **1. CULTURAL REQUIREMENTS TO ACCESS THE COMMUNITY**

#### **37. Cultural requirements for obtaining short-term permits**

There are no cultural requirements for obtaining residence permits.

**Scores:**

**General score: 1**

**Ethnic Hungarians: 1**

**Chinese: 1**

**Muslims: 1**

#### **38. Cultural requirements for obtaining long-term residence permits (duration of validity ≥ 5 years)**

There are no cultural requirements for obtaining settlement permit.

**Scores:**

**General score: 1**

**Ethnic Hungarians: 1**

**Chinese: 1**

**Muslims: 1**

#### **39. Cultural requirements for naturalization (first generation immigrants)**

Basic constitutional studies examination in Hungarian language is a condition for the naturalization of all foreigners except for:

- persons who graduated in Hungarian language from any school or educational institution or institute of higher education, or
- legally incompetent persons, or
- persons incapable to take the exam out of serious health deterioration,
- or persons over the age of 65.

**Scores:**

**General score: 1**

**Ethnic Hungarians: 1**

**Chinese: -1**

**Muslims: -1**

<sup>30</sup> Rogers Brubaker: Migrations of Ethnic Unmixing in the "New Europe", *International Migration Review*, Vol. 32, (4) 1998

## 2. LANGUAGE PROGRAMS

### 40. Host-country language programs for immigrant adults

Only refugees are entitled to free public-financed Hungarian language courses for one year after arrival to Hungary. However, as the procedure of obtaining the status might take several months, the refugees might not be able to use this service properly.

Ethnic Hungarians' mother tongue is a Hungarian that might differ slightly from the dialect spoken in Hungary (in very few words or some minor differences in grammar), but this does not cause difficulties in mutual comprehension.

**Scores:**

**General score: -1**

**Ethnic Hungarians: not relevant**

**Chinese: -1**

**Muslims: -1**

### 41. Host-country language programs for immigrant children

The Act of 1993 on Public Education was modified in 2003, so that schools taking non-ethnic Hungarian, non-Hungarian citizen children, might apply a special program on intercultural education. The directive of the program has been declared in a communication of the Ministry of Education (regarding the introduction of the guidelines on intercultural education of kindergarten and school level education of migrant children and students<sup>31</sup>)

Schools having engaged in an intercultural program might receive an increased budget after the foreign children studying in the school; this normative should be paid from the state-budget. The program contains the teaching of Hungarian as a foreign language in at least 2 hours per week, by specialized teachers.

According to Vámos, 2005<sup>32</sup>, in the first year of application of the directive, i.e. school year 2004/2005 there has been only 118 students after whom the schools have applied for the increased subsidy in no more than 10 schools all over Hungary. Based on her research, even in these schools these prescriptions have not been followed.

**Scores:**

**General score: 0**

**Ethnic Hungarians: not relevant**

**Chinese: 0**

**Muslims: 0**

## 3. SCHOOLING

### 42. Possibility of public funding for Muslim private-owned schools (full time schools)

According to Act LXXIX of 1993 on Public Education, church-owned educational institutions, if making a contract with the Hungarian Government for the pursuit of activity of public education, are entitled for an amount of state subsidy defined by law. (All churches that are registered according to Act IV of 1990 on Freedom of Religion and Conscience and Churches.)

**Score: 1**

<sup>31</sup> [http://www.okm.gov.hu/doc/upload/200506/kindergarten\\_and\\_school\\_level\\_education\\_050620.pdf](http://www.okm.gov.hu/doc/upload/200506/kindergarten_and_school_level_education_050620.pdf)

<sup>32</sup> Vámos Ágnes: A magyar és a külföldi állampolgár gyermekék és tanulók közös nevelése- oktatásakor alkalmazott interkulturális pedagógiai rendszer 2004. szeptemberi iskolai bevezetésének első tapasztalatai, javaslatok további teendőkre, <http://www.okm.gov.hu/doc/upload/200512/iplr-implementationja2-3.doc>

**43. Number of public funded Muslim schools (full-time schools)**

There is no Muslim school registered among the denominational schools in Hungary<sup>33</sup>. (Denominational schools are schools that are owned and maintained by a legal entity of a church, which church has to be registered in Hungary, according to law. Islam is also registered as a church in Hungary.) There is one full-time school operating in Budapest, mainly maintained by the Lybian Embassy (the School for Arabic Unity), for Arab children living in Budapest, which is partly public funded. (As it is compulsory to attend school in Hungary before the age of 18, all full time schools receive a certain budget from the state.)

**Score: 0**

**44. Possibility of public funding for other minority group private-owned schools (full time schools)**

- According to Act LXXIX of 1993 on Public Education the 13 recognized ethnic and national minorities have the right for public education on native language.
- According to Act LXXIX of 1993 on Public Education, church-owned educational institutions if making a contract with the Hungarian Government for the pursuit of activity of public education are entitled for an amount of state subsidy defined by law. (All churches that are registered according to Act IV of 1990 on Freedom of Religion and Conscience and Churches.)
- Foreign schools operating in Hungary are also entitled for the subsidy paid by the state-budget, if making an agreement defined by the law with the Hungarian Government

**Scores:**

**General score: 1**

**Ethnic Hungarians: 1**

**Chinese: 1**

**Muslims: 1**

**45. Number of public-funded minority group schools (full-time schools)**

For immigrant children:

- Chinese-Hungarian Bilingual Elementary School: mainly public funded
- School of Arabic Unity: partly public funded, partly maintained by the Lybian Embassy

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1**

**Chinese: 0**

**Muslims: 0**

**46. Cultural/language courses for pupils of minority groups inside public schools**

A directive on intercultural education in 2003 gives to schools the possibility to receive increased public subsidies to implement a special intercultural program, which notably comprises courses on immigrants' language and society of origin.

However, according to Vámos, 2005<sup>34</sup>, in the first year of application of the directive (i.e. school year 2004/2005), there has been only 118 students concerned by such programs and no more than 10 schools all over Hungary. Based on her research, even in these schools these prescriptions have not been followed. The political directive is already created, however the implementation is rare, consciousness among school leaders and teachers is low (Vámos, 2005).

**Scores:**

<sup>33</sup> According to Fedor Tibor, Secretariat of Church Relations, Ministry of Culture and Education.

<sup>34</sup> Vámos Ágnes: A magyar és a külföldi állampolgár gyermekék és tanulók közös nevelése- oktatásakor alkalmazott interkulturális pedagógiai rendszer 2004. szeptemberi iskolai bevezetésének első tapasztalatai, javaslatok további teendőkre, <http://www.okm.gov.hu/doc/upload/200512/iplr-implementationja2-3.doc>

**General score: 0**

**Ethnic Hungarians: 0**

**Chinese: 0**

**Muslims: 0**

**47. Changes in public schools ‘curriculum to take into account the cultural diversity of society**

As described in item 56, schools that have migrant students might implement a special program on intercultural education. However, according to recent experience, very few schools have successfully operated the program.

For schools in general: The National Core Curriculum (Nemzeti Alaptanterv, NAT) introduced in 1995 provides a centrally developed frame (created by the responsible ministry) for the development of local curricula in schools.<sup>35</sup> The NAT has been complemented by Frame Curricula in 2000.<sup>36</sup> These frame curricula together with the NAT all contained/contain prescriptions on the themes of European identity, European societies, societies outside Europe. Also, they contained/contain prescriptions on the inclusion of knowledge on the lifestyle and history of recognized ethnic and national minorities in Hungary into the local curriculum.

Therefore directives exist to take into account the cultural diversity of the society; however these directives have been rarely implemented into practice.<sup>37</sup> Also, these directives concern only the 13 recognised minorities of Hungary, Muslims and Chinese are not covered by the curriculum.

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1**

**Chinese: -1**

**Muslims: -1**

## 4. RELIGION

**48. Religious education in public schools**

According to Act LXXIX of 1993 on Public Education 4/4, if students and their parents express their needs, public schools shall support the provision of religious classes in the school with assuring space and time in the school's timetable, and contributing to the salary of religious teachers. Religious classes should be held and organized by a legal entity of a church. These classes are optional.

**Score: 1**

**49. Islamic religious signs in the public sector**

Act IV of 1990 on Freedom of Religion and Conscience and Churches 2/1 allows the practice of religion in the public sector. Due to the low number of Muslims in Hungary, this act was not created with Muslims in mind.

**Score: 1**

**50. Islamic religious signs in the private sector**

Act IV of 1990 on Freedom of Religion and Conscience and Churches 2/1 allows the practice of religion in the private sector.

<sup>35</sup> Balogh Györgyné, Ministry of Education and Culture

<sup>36</sup> Vágó, Irén: Jelentés a közoktatásról 2003, 5.1.1. Nemzetközi tendenciák

<http://www.oki.hu/oldal.php?tipus=cikk&kod=Jelentes2003-Tartalom>

<sup>37</sup> Feischmidt et al.: Nem kívánt gyerekek, (Unwanted Children) MTA NKI, Budapest, 2006

<b>Score: 1</b>
<b>51. Islamic breaks for praying</b>
Act IV of 1990 on Freedom of Religion and Conscience and Churches 2/1 allows the practice of religion in the private and public sector. Also, according to a representant of the Dar-Alszalam Mosque in Budapest (Bartók Béla u. 29.) praying is allowed without conditions, and also tolerated in practice.
<b>Score: 1</b>
<b>52. Cemeteries and burial according to Islamic rite</b>
Act IV of 1990 on Freedom of Religion and Conscience and Churches 2/1 allows the practice of religion, and pursuit of religious ceremonies in the private and public sector. According to a representant of the Dar-Alszalam Mosque in Budapest (Bartók Béla u. 29.) one can freely organize islamic burial ceremonies in Hungary. (there is a cemetery in Budapest where Muslim persons usually organise the Islamic burials.)
<b>Score: 1</b>
<b>53. Local public budget for mosques (building and managing)</b>
Hypothetically there is a possibility of public funding for mosques. Local governments may subsidize civic and religious organizations if they take over local governmental responsibilities in certain fields (education, health etc.) Any organization that can prove to take over some of these local governmental tasks may apply for local subsidies. However, in practice, according to the representant of the Dar-Alszalam Mosque in Budapest, they never apply for such subsidies.
<b>Score: 1</b>

## 5. MEDIA

<b>54. Islamic religious programs in public and state-subsidized private broadcasting (not including cable and satellite)</b>
None
<b>Score: -1</b>
<b>55. Programs in public and state-subsidized private broadcasting (not including cable and satellite) for other minority groups or for the whole immigrant population</b>
In Hungary there are no programs broadcasted especially for immigrants. Acts. LXXVII. of 1993 on the rights of ethnic and national minorities and Act I of 1996 on television and radio broadcasting assures the right of the recognized ethnic and national minorities to minority media. These programs are less than 1 hour long weekly, and are broadcasted only for some of the groups.
<b>Score: -1</b>

## 6. LABOUR MARKET: GROUP RIGHTS

<b>56. Affirmative actions for ethnic minorities in the private sector</b>
There no affirmative actions in the private sector. The only action concerns refugees and was implemented in the period 2002-2004 by the United Nations High Commissioner For Refugees of Hungary together with Autonómia Foundation. They launched a program to support refugees' integration into the labour market: in case of employing a refugee for 1 year, the employer's costs have been paid by the program for 6 months.
See also 34 on the Equal Treatment Authority.
<b>Scores:</b>

<b>General score: -1</b>
<b>Ethnic Hungarians: -1</b>
<b>Chinese: -1</b>
<b>Muslims: -1</b>
<b>57. Affirmative actions for ethnic minorities in the public sector</b>
See q. 59.
<b>Scores:</b>
<b>General score: -1</b>
<b>Ethnic Hungarians: -1</b>
<b>Chinese: -1</b>
<b>Muslims: -1</b>
<b>58. Measures to further the integration of foreigners into the labour market</b>
<b>a. Policy targets to reduce unemployment of foreigners</b>
<b>b. Policy targets to promote vocational training for foreigners</b>
Since 2004, the EQUAL <sup>38</sup> program launched by the European Union operates in Hungary, which, by means of education and social services, promotes the reintegration or integration of disadvantaged people into the labour market, with a special attention to the Roma and persons applying for refugee status. Also in the frame of the National Development Plan (Nemzeti Fejlesztési Terv) that sets the framework of the utilization of the European Union Structural Funds assistance, operates the Human Resources Development Operational Programme, HRDOP (Humánerőforrásfejlesztési Operatív Program) <sup>39</sup> aiming to promote the better utilization of human resources; among others it contains the priority of improving the employability of disadvantaged people, including the refugee applicants. The HRDOP aims to provide training for disadvantaged people, and assistance to integrate into the labour market. The goals of HRDOP will be taken over by the New Hungary Development Plan for the period of 2007-2013. <sup>40</sup>
<b>Score: -1</b>

### **III - GENERAL POS**

#### **1. CONFIGURATION OF POWERS**

<b>59. Degree of federalism and decentralization</b>
Hungary is a unitary state, thus among the Lijphart indicators of federalism and decentralization the constitution, the legislature structure and taxation will be analysed. Hungary has a written constitution, and its stability is protected by a minority veto. It is also further strengthened by the Constitutional Court with broad jurisdiction and political activism. The structure of the legislature is unicameral. However, it is closer to a working parliament than a confrontational parliament: the parliament through the strong committee system, and the two-third laws has a strong power of influence vis-à-vis the government. <sup>41</sup> Regarding the taxation structure, the share of the central government of taxes without social contributions was 88% in 1999, while local governments received 12%. (The taxes of the latter were made up of one quarter of personal income tax, of a non-central business tax, the

<sup>38</sup> [www.equal.hu](http://www.equal.hu)

<sup>39</sup> [www.hefop.hu](http://www.hefop.hu)

<sup>40</sup> <http://www.nfh.hu/index.nfh?r=&v=&l=&p=umfttartalom>

taxes on land & buildings, one half of taxes on property transfer and more than one half of the motor vehicle taxes).<sup>42</sup> The share of local governments of total revenue was between 8 and 13% in the period of 1999 and 2003. <sup>43</sup>

#### **Score: 1.0 (extension of Lijphart's indicator)**

#### **60. Decentralization at the local level: sub-local public structures (at the level of district, neighbourhood) with political powers**

The local government system in Budapest consists of 23 districts, with district-level self-governments and city-level self government (The Local Government of Metropolitan Budapest). The distribution of tasks and responsibilities among them is based purely on the spatial characteristics of public (including administrative) services they provide. This does not entail administrative, supervisory duties. Thus, for example, basic educational, medical, etc. services are run by local self-governments, whereas institutions providing higher level services for a larger mass of users (e.g. specialised hospitals, or specialised secondary schools, or higher level education) may be run by the Local Government of Metropolitan Budapest.

Each district may have minority self-governments— these bodies are also embedded into the district's decision making procedures.

Each district-level self government may create partial sub-self-governments, to which certain rights and duties might be delegated.<sup>44</sup>

#### **Score: 1**

#### **61. Power distribution in the city**

The most important actors of local decision-making consist of the council of representatives in the districts, or assembly in the metropolitan Budapest, the committees, the mayor and the chief administration officer (CAO) or notary. Basic rights and powers reside with the body of representatives. It may delegate competence to the committees, the mayor, local minority self-governments and district governments.<sup>45</sup>

#### **62. Electoral systems – Local level**

According to Act LXIV of 1990 on the Election of Local Councillors and Mayors, the council of representatives on the district level is elected with a mixed method: approximately 60% of representatives are elected in individual constituencies, while 40% of them are elected on lists in a proportional system.

The 66 members of the assembly of the Local Government of Metropolitan Budapest are elected directly from proportional lists. The mayors and the chief mayor of Budapest are elected directly; the candidate receiving the most votes is entitled to the position.

#### **Score: 0**

#### **63. Party systems in the city**

<sup>41</sup> Körösényi, A: Government and Politics in Hungary, CEU Press, 1999

<sup>42</sup> Structures of the Tax Systems in Estonia, Poland, Hungary, the Czech Republic and Slovenia Final Report commissioned by the European Commission, DG XXI Reference: Contract XXI/99/801, 2000

<sup>43</sup> Benedek Dóra – Lelkes Orsolya – Scharle Ágota – Szabó Miklós (2006): A magyar államháztartási bevételek és kiadások szerkezete 1991–2004 között, Közgazdasági Szemle, LIII. évf., február, 119–143.

<sup>44</sup> György Hajnal: Hopes and Reality: The First Decade of the Hungarian Local Government System in the Eyes of the Public. 115-169. p. In: Public Perception of Local Governments. Ed by: Paweł Swianiewicz. Bp., 2001. [www.lgi.osi.hu/publications/2001/75/PP-Ch3.PDF](http://www.lgi.osi.hu/publications/2001/75/PP-Ch3.PDF)

<sup>45</sup> Gábor Soós: Local Party Institutionalization in Hungary, Thesis submitted in partial fulfillment for the degree of DPhil, Central European University, Department of Political Science, 2005

<http://www.ceu.hu/polsci/dissertations/soos.pdf>

Multiparty system

#### 64. Party(ies) in power in the city

Local elections 2006:

The MSZP (socialist) and the SZDSZ (liberals) are in a coalition.

Parties in the assembly of metropolitan Budapest:

<b>FIDESZ</b> Christian Democratic Popular Party	30 seats
<b>MAGYAR SZOCIALISTA PÁRT, Hungarian Socialist Party</b>	24 seats
<b>SZDSZ- The Hungarian Liberal Party</b>	9 seats
<b>MAGYAR DEMOKRATA FÓRUM, Hungarian Democratic Forum</b>	3 seats

Regarding the 23 districts of Budapest, it is complicated to speak about a clear party structure, as many of the candidates are candidates of multiple parties at the same time (certain candidates may be sent by 5 different parties, some of which might be right and some left).

Regarding the mayors of the districts:

MSZP Hungarian Socialist Party: 10, 11, 13, 14, 15, 18, 19, 20, 21 Districts (9 districts)

SZDSZ Hungarian Liberal Party: 8, 9 Districts (2 districts)

MSZP-SZDSZ: 6, 7 Districts (2 districts)

FIDESZ: 1, 2, 3, 5, 12, 16, 17, 22 Districts (8 districts)

Other parties, or NGOs: 4, 23 Districts<sup>46</sup> (2 districts)

#### 65. Party (ies) in power – National Level

Parties in the national government in the last 10 years:

Period	Parties in government	
1994-1998	MSZP-SZDSZ	left-liberal
1998-2002	FIDESZ-FKGP	right
2002-2006	MSZP-SZDSZ	left-liberal
2006-	MSZP-SZDSZ	left-liberal

#### 66. Party (ies) in power – Local Level

**The Metropolitan of Budapest:**

Parties in the assembly of metropolitan Budapest – local elections 2006:

<b>FIDESZ</b> Christian Democratic Popular Party	30 seats
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<sup>46</sup> Questions 67, 69, 77, 99, 100, 101: [www.valasztas.hu](http://www.valasztas.hu)

<b>MAGYAR SZOCIALISTA PÁRT, (MSZP) Hungarian Socialist Party</b>	<b>24</b> seats
<b>SZDSZ- The Hungarian Liberal Party (SZDSZ)</b>	<b>9</b> seats
<b>MAGYAR DEMOKRATA FÓRUM, (MDF) Hungarian Democratic Forum</b>	<b>3</b> seats

Parties in the assembly of metropolitan Budapest – local elections 2002

<b>FIDESZ – MDF – MKDSZ</b>	<b>21</b> seats
<b>MSZP</b>	<b>24</b> seats
<b>SZDSZ</b>	<b>16</b> seats
<b>MIÉP, Hungarian Party of Justice and Life</b>	<b>5</b> seats

Parties in the assembly of metropolitan Budapest – local elections 1998

<b>FIDESZ – MDF</b>	<b>22</b> seats
<b>MSZP</b>	<b>20</b> seats
<b>SZDSZ</b>	<b>18</b> seats
<b>MIÉP</b>	<b>6</b> seats

Parties in the assembly of metropolitan Budapest – local elections 1994

<b>FIDESZ – MDF - KDNP</b>	<b>19</b> seats
<b>MSZP</b>	<b>21</b> seats
<b>SZDSZ</b>	<b>19</b> seats
<b>MIÉP - FKgP</b>	<b>7</b> seats

Coalitions were formed between the socialist (MSZP) and liberal (SZDSZ) parties.

### **The districts of Budapest:**

Regarding the 23 districts of Budapest, it is complicated to speak about a clear party structure, as many of the candidates are candidates of multiple parties at the same time (certain candidates may be sent by 5 different parties, some of which might be right and some left).

Regarding the mayors of the districts as candidates or joint candidates of parties:

#### **Elections 2006:**

MSZP Hungarian Socialist Party: 10, 11, 13, 14, 15, 18, 19, 20, 21 Districts (9 districts)

SZDSZ Hungarian Liberal Party: 8, 9 Districts (2 districts)

MSZP-SZDSZ: 6, 7 Districts (2 districts)

FIDESZ Christian Democratic Party: 1, 2, 3, 5, 12, 16, 17, 22 Districts (8 districts)

Other parties, or NGOs: 4, 23 Districts (2 districts)

Elections 2002:

MSZP: 10, 15, 16, 18, 20, 21 Districts (6 districts)

MSZP-SZDSZ: 2, 5, 7, 8, 9, 11, 13, 17, 19, 22 Districts (10 districts)

FIDESZ – MDF – MKDSZ: 1, 12, 14 Districts (3 districts)

MSZP – SZDSZ – other parties: 6 District (1 district)

FIDESZ – MDF – other: 4 District (1 district)

Other parties, or NGOs: 3, 23 District (2 districts)

Elections 1998:

MSZP: 15, 18, 21 Districts (3 districts)

SZDSZ: 8 District (1 district)

MSZP-SZDSZ: 7, 9, 13, 14, 16, 17, 20 Districts (7 districts)

FIDESZ – MDF: 1, 2 Districts (2 districts)

FIDESZ – FKGPMDF – other: 4, 5, 6, 10, 12, 19, 22 Districts (7 districts)

Other parties, or NGOs: 23 District (1 district)

[www.valasztas.hu](http://www.valasztas.hu)

## 2. PARTICIPATION MECHANISMS

### 67. Referenda (Local level)

According to Act LXV of 1990 on Local Governments local referenda can be called on certain conditions (Referenda must be called in cases defined by law, in other cases it shall be called in after the consideration of the local councillors. Referenda must also be called in if it was initiated by persons whose number has reached the threshold set in its local government decree.) If successful, its result is legally binding. It is legally prohibited to hold a local referendum on budgetary questions, local taxes, the rules of the operation of the representative body, or the dissolution of the representative body. In any other issues it can be held.<sup>47</sup>

**Score: 1**

### 68. Who can initiate a referendum?

In Budapest, local referenda may be organized both by the local governments of the districts and by the local government of metropolitan Budapest.

A referendum might be initiated by

- at least the quarter of the local council
- a committee of the council
- the leaders of a local NGO

- a certain proportion of citizens petitioning for the referendum (the threshold is set by the local governments themselves, and should be between 10 % and 25 % of the citizens eligible to vote)<sup>48</sup> The threshold is set uniformly for all referenda in the given district, independently of the actual case. In Budapest therefore, there are different thresholds set for the different 23 districts.

**Score: 1**

### 69. Number of (consultative or binding) referenda held over the past 10 years (Local

<sup>47</sup> Soós, 2005

<sup>48</sup> Soós, 2005

**level)**

There is no reliable data on local referenda before 1999, as it is mandatory for local governments to declare the call of referenda for the Ministry of the Interior only starting from year 2000.

Year	Hungary	No. of local referendum all over	No. of local referendum in Budapest
1999	17	realized	No data
2000	19	realized	No data
2001	12	realized	0
2002	8	realized	0
2003	35	realized	3
2004	50	realized	3
2005	19	appointed	0
2006	18	appointed	0

Source: [www.valasztas.hu](http://www.valasztas.hu)<sup>49</sup>

**Score: -1**

**70. Existence and type of Citizen assemblies (local level)**

According to the Local Government Act LXV of 1990, the only legal prescription for local governments is to hold a public hearing once per year. It is also possible to organize village or town policy fora, town district meetings or other fora in order to inform the citizens and social organizations directly and to involve them in the preparation of important decisions; the order of these meetings shall be determined by the representatives' body. After the forums the representative body shall be informed of the standpoint taken by the participants of these meetings and of the different opinions expressed.<sup>50</sup>

**Score: 0**

**71. Citizen assemblies (local level)**

Only consultative.

**Score: 0**

**72. Involvement of civil society organizations (associations, foundations, interest groups...) in the definition of local policies**

In some of the 23 district-level local governments there exists already a formal, regulated procedure of consultation, however, in the majority of the districts it is rather optional and informal. On the level of the local government of metropolitan Budapest, currently there are serious attempts to establish a formal regulated consultation system.<sup>51</sup>

**Score: 0**

<sup>49</sup> <http://www.valasztas.hu/nepszav03/hu/hirek/2003nepszav.pdf>

<http://www.valasztas.hu/nepszav03/hu/hirek/2004nepszav.pdf>

<http://www.valasztas.hu/idokhnsz/2005nepszav.pdf>

<http://www.valasztas.hu/idokhnsz/2006nepszav.pdf>

<http://www.ceu.hu/polisci/dissertations/soos.pdf>

<sup>50</sup> Soós, 2005

<sup>51</sup> Question 74 and 75: Interview with Zsuzsanna Pikó, Nonprofit Information and Training Center Foundation (Nonprofit Információs és Oktatási Központ Alapítvány), Budapest

### **73. Involvement of civil society organizations (associations, foundations interest groups...) in the implementation of local policies**

Depending on the districts and on the field of activities there exist examples of all three strategies: no involvement, in partnership with public institutions, or full delegation of powers for the implementation of policies. The picture is so diverse that it is impossible to identify an overall trend: in some of the districts (5, 14, 15) a full delegation of power is carried out in many areas, while in numerous districts there is no civil involvement at all.

An interesting example is the case of the Hungarian Malteser Charity Service (HMCS), for whom the home care of elderly has been delegated in 1993 in the 3<sup>rd</sup> District of Budapest. The pioneering program of the (HMCS) has been so successful that its results have been embedded into the Act on Social Benefits in 1998. Another experimental program on assistance of the elderly has been carried out by the Ministry of Youth, Social and Family Affairs, the HMCS and the Institute of Sociology of the Hungarian Academy of Sciences in 2003, which resulted in certain local governments of Budapest being also voluntarily involved in the program.<sup>52</sup>

**Score: 0, but substantial changes depending on the districts: -1/0/1**

### **74. Pluralism of the participation system in the city**

The picture is diverse regarding the districts, however in the majority of districts only one or two major organizations of the civil society are consulted.

**Score: -1**

### **75. Is there a specific department in the local council devoted to promote citizen participation**

The assembly of Budapest has a separate body devoted to promote citizen participation namely the committee for NGOs and Social Relations (Civilszervezetek és Társadalmi Kapcsolatok Bizottsága). The body has been created in 2002.

In 2004 within the Mayor's Office of Metropolitan Budapest there has been created the Civil Office (Civil Iroda).

In certain districts of Budapest the council of representatives may also have created a committee related to the affairs of civic participation (E.g. the Xth district). Local governments of certain districts may employ an official whose main task is to liaise with local NGOs ("civil referens"). Also certain districts may have a policy integrated within the local government promoting communication and cooperation with NGOs. (E.g. the XVIIIth district's Civil concept)<sup>53</sup>

**Scores: 1**

### **76. Is there a bill of rights or a similar local legislation that regulates how citizens can influence the decision-making processes in ways other than selecting their elected representatives?**

According to the Local Government Act LXV of 1990 the local governments must hold at least one public hearing per year. Also local referenda and popular initiatives are legally regulated tools to influence local politics. Popular initiatives are legally non-binding means of citizen involvement: A popular initiative may propose the debate of any public issue in the

<sup>52</sup> Interview with Zsuzsa Széman, expert of cooperation among state/local/market-based/voluntary spheres in health care, Institute of Sociology, Hungarian Academy of Sciences

<sup>53</sup> <http://www.budapest.hu/engine.aspx?page=20021105-kozgy-bizottsagok#A1>

[www.bp18.hu/text/textwf/doc/textwf171/civilkon.doc](http://www.bp18.hu/text/textwf/doc/textwf171/civilkon.doc)

<http://www.kobanya.hu/tart/farticle/33/50/1>

<http://www.pestcivil.hu/hirek/egyhir/504096.html>

jurisdiction of local governments; the council is required to discuss the question, but has no further obligations.<sup>54</sup>

The threshold of the minimal number of inhabitants (eligible to vote in the settlement) who can launch a popular initiative is set by local governments in a decree; this threshold should be between 5 and 10 percent of inhabitants eligible to vote.

**Score: 1**

**77. Number of local-council-owned buildings granted to associations as meeting spaces  
Raw number per 1,000 inhabitants**

NA

**Score: NA**

**78. Average percentage of local budget devoted to subsidizing associations in general  
(1995-2005) Raw percentage**

NA

**Score: NA**

**79. If there are sub-local public structures: do citizens have participation mechanisms  
within these structures?**

Question 76 holds for the levels of Metropolitan Budapest, districts of Budapest and sub-local governments as well.

**Score: 1**

#### **IV – SPECIFIC POS (related to immigration & ethnic relations)**

**80. Main responsibility for immigrants' integration policies**

There are no responsibilities specified for integration policies for the different levels of government. In policy making and implementation in general, it is always either the national government or the local governments in Hungary which play the important role. Influence and power in making decisions about policies lay with the national government, competence (information on the needs, greater knowledge of the local circumstances and conditions) is usually stronger in local agencies. If there were any integration policy in place, it is likely that the dynamics would be similar.

**Score: 0**

**81. Public information and support services for immigrants at the local level (which inform them about their rights, the institutions to which they can address, etc.)**

- Foreigners may use the internet site of the Office for Immigration and Nationality – Ministry of the Interior: the page offers information on immigration law and procedure in 4 languages (Hungarian, English, German, French). The page also contains a forum, where OIN officers answer the questions raised via the forum. These answers are provided in a few days after a question had been raised.

- A telephone number is also provided on the homepage; when experimenting with it, this hotline has performed rather poorly (Váradi, 2006).<sup>55</sup>

- Foreigners might also make enquiries at the regional offices of OIN. However this implies long hours spent in a queue, and possibly no satisfactory amount of information.

- At the level of Budapest no public information and support is provided.

**Score: -1**

<sup>54</sup> Soós, 2005

<sup>55</sup> Luca Váradi: Immigration Business: Profit-oriented Institutions in the Field of Immigration, Thesis in sociology, Eötvös Loránd University, Budapest, 2006

<b>82. Which institution (s) has(ve) the leading role in the field of immigrants' integration? – Local Level</b>
Provisions related to integration of immigrants are only administrative provisions; district notary offices are in charge of these. In the centralized system of Hungarian immigration administration, district notary offices only mediate between Office of Immigration and Nationality, Ministry of the Interior and the immigrants, without any substantive autonomy.
<b>Score: A not specialized service (District notary office)</b>
<b>83. Policies related to immigrants' integration at the local level</b>
There are no declared immigrant integration policies.
<b>Score: -1</b>
<b>84. Is there a specific department in the local council devoted to immigrants' integration policies?</b>
There is no such department.
<b>Score: -1</b>
<b>85. Percentage of total local budget devoted to immigrants 'integration policies (raw percentage)</b>
There is no integration policy at the local level.
<b>Score: -1</b>
<b>86. Existence of a council/board/assembly that represents immigrants/minority groups (for example, in France, the Parisian Council of Non-Eu foreigners)</b>
None
<b>Score: -1</b>
<b>87. Involvement of minority/immigrant organizations in the <u>definition</u> of local policies</b>
None
<b>Scores:</b>
<b>General score: -1</b>
<b>Ethnic Hungarians: -1</b>
<b>Chinese: -1</b>
<b>Muslims: -1</b>
<b>88. Involvement of minority/immigrant organizations in the <u>implementation</u> of local policies</b>
Minority organizations are lobbying at the level of local government mainly related to assuring them space and buildings, and financial support to operate.
<b>Scores:</b>
<b>General score: -1</b>
<b>Ethnic Hungarians: -1</b>
<b>Chinese: -1</b>
<b>Muslims: -1</b>
<b>89. Involvement of organizations specialized in immigration/integration issues in the <u>definition of local policies</u></b>
As the field of immigration is characterized by a high level of national centralization (Office of Immigration and Nationality, Ministry of the Interior being almost exclusively responsible for dealing with immigrants), and also by severe resource gaps on the level of local governments, organizations specialized in immigration are usually lobbying at the national level; some attempts are now being carried out at the level of Local Government of Metropolitan Budapest, not very successfully until now. A typical example might be the current case of Menedék Association for Migrants, who carrying out family assistance services (for migrants), take over local governmental responsibilities of family assistance provisions. It would be fruitful for the association if this

fact appeared in the legislation as well – the lobby for this goal is carried out on a national level. (Providing family assistance services, Menedék carries out its own actions, without becoming part of the local policy system, therefore this is not implementation of a policy.)

**Score: -1**

**90. Involvement of organizations specialized in immigration/integration issues in the implementation of local policies**

None

**Score: -1**

**91. Involvement of organizations playing a relevant role for immigrants' integration (such as Human rights organizations) in the definition of local policies**

As the field of immigration is characterized by a high level of national centralization (Office of Immigration and Nationality, Ministry of the Interior being almost exclusively responsible for dealing with immigrants), and also by severe resource gaps at the level of local governments, Human rights organizations are usually lobbying at the national level.

**Score: -1**

**92. Involvement of organizations playing a relevant role for immigrants ' integration (such as Human rights organizations) in the implementation of local policies**

None

**Score: -1**

**93. Involvement of the local power in the funding of minority/immigrants organizations**

On the same basis as 'autochthonous' or 'non-ethnic' organizations.

**Score: 0**

**94. Requirements to be able to apply for subsidies**

When applying for local government's subsidies, immigrant organizations can hand in their applications on equal grounds with other organizations.

**Score: 1**

**95. Party arrangements to favour the presence of persons with ethnic minority background in the leadership of the party – Local level**

None

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1**

**Chinese: -1**

**Muslims: -1**

**96. Party arrangements to favour the presence of persons with ethnic minority background in the party (rank-and-file members)– Local level**

None

**Scores:**

**General score: -1**

**Ethnic Hungarians: -1**

**Chinese: -1**

**Muslims: -1**

**97. Share of radical right and anti-immigrant parties in the electoral vote – National level: general elections**

**Mean over the 10 past years (raw percentage)**

The main radical right parties in Hungary are the Hungarian Party of Justice and Life (Magyar Igazság és Élet Pártja - MIÉP) and Jobbik.

The immigrants in general are not the focus of political parties in Hungary, however in some major debates politicians do articulate a standpoint in related questions. In general, the major political acts related to immigration are ideological debates around ethnic Hungarians living in the neighbouring countries of Hungary. Regarding migration of ethnic Hungarians to Hungary political parties have often controversial and fluctuating opinions that do not reflect the simple Right/Left – Anti/Pro Immigration cleavage. Until recently non-Hungarian immigrants rarely came to the focus of political discourses.<sup>56</sup> However, in some of the cases related to ethnic Hungarians across the borders, non-Hungarian co-nationals of the ethnic Hungarians have also been touched upon (e.g. legal acts aiming to target ethnic Hungarians, had also consequences on non-Hungarians).

National elections in Hungary apply a mixed electoral system for the aggregation of votes, where three methods are integrated to obtain the final seats:

- Single-member districts
- Territorial party lists
- National compensatory list

Regarding the territorial party lists, the MIÉP obtained 5.47% in 1998, 4.37% in 2002 and 2.2% in 2006 (together with Jobbik). As the threshold for obtaining a mandate in the parliament is 5%, MIÉP was part of the parliament only in 1998-2002. The global mean over the last three elections in the last 10 years is 4.01%.

Jobbik participated in national elections in 2006 for the first time, together with MIÉP reached 2.2%, which was not enough to obtain a mandate in the parliament.

**Score: 1**

**98. Share of radical right and anti-immigrant parties in the electoral vote – Local level: general elections**

**Mean over the 10 past years (raw percentage)**

For the national elections in 2006, regarding the electoral votes in Budapest, 2.9% went for the MIÉP-Jobbik; in 2002 MIÉP obtained 6.96%; and 8.84 % in 1998. The mean is 6.21% (without the results for national elections of 1994).<sup>57</sup>

(One possible reason for the overrepresentation of the far right in bigger cities and the capital could be the lower-middle class being the main basis of the party residing in bigger settlements.)

**Score: 0**

**99. Share of radical right and anti-immigrant parties in the electoral vote – Local elections (city council) Mean over the 10 past years (raw percentage)**

In the metropolitan Budapest regarding the votes for the party lists (4% is the threshold to get into the council), MIÉP obtained 2.51% in 2006, 6.56% in 2002, 9.12% in 1998, 10.3 % in 1994. The mean is 7.12%.

**Score: 0**

<sup>56</sup> However, in the last weeks a debate emerged related to the national migration strategy of Hungary created in the last years by the Ministry of Justice and Law Enforcement that stirred the political life by referring to possible Asian immigrants in Hungary. Also, related to the recent EU enlargement, the questions of possible immigration of Romanians and Bulgarians were superficially touched upon.

<sup>57</sup> <http://www.voks2006.hu/index.php?id=264>

## **GENERAL CONCLUDING COMMENTS**

Regarding the three main groups, immigration law differentiates between EEA nationals, ethnic Hungarians, and non-ethnic Hungarians only – Chinese and Muslims are not treated separately from other non-ethnic Hungarian immigrants arriving from third countries.

Concerning laws in general, it is often the case that the practice and the theory do not match: even if the relevant law may have been created, the practical implementation is impeded due to the absence of executive rules, or other shortcomings.

Regarding the indicators listed in relation to the issuance of residence permits (short-term permits) Hungary qualifies as a closed country. Obtaining a permit is easier for EEA nationals; however the proof of livelihood, accommodation and health insurance coverage is a requirement for all subgroups.

Concerning long-term permits and naturalization, ethnic Hungarians are in a more favourable situation than non-ethnic Hungarians, with regard to the required minimum lengths of legal residence, and also in respect of fees and deadlines to be paid during the procedure. Long-term permits enable greater provision of social benefits, and less restricted employment rules than short-term permits (except for EEA citizens); no differentiation is implemented by law in these respects regarding the three subgroups analyzed in our research.

Laws and structures exist which assure protection against discrimination. Political rights of persons holding long-term permits are restricted to the right to vote; European Union citizens and refugees have a restricted right also to eligibility.

Language programs are not needed for ethnic Hungarians; for the two other groups there is a language program available only if the applicants are refugees. Concerning schools the legal environment enables the maintenance of schools and programs inside schools with a special focus on immigrants; however, the actual practical realization of these is rare. An exception for this was the establishment of a Chinese primary school in 2004.

Regarding practice of religious rituals and practice of religious education (regardless of the type of religion), openness characterizes Hungarian laws.

Except for certain initiatives for refugees, no affirmative action is taken on the labour market, regardless of the origin of immigrants.

Regarding power structures, a mixture of centralization and decentralization is present at the national level, while a strong decentralization characterizes the city of Budapest. Participation mechanisms offer various ways to influence local politics, including referenda, citizen assemblies, participating at hearings, or in consultation bodies of local governments. However, these possibilities are implemented into real-life practice only at a moderate and varying level in the different districts of Budapest.

Mechanism and resources helping immigrants find their way in everyday life are scarce. Concerning the participation, definition and implementation of local policies on immigrant integration, this is practically absent from the political scene of Budapest, regardless of the origin of migrants.

## **COUNTRY AND CITY**

Italy, Milan<sup>58</sup>

### **INTRODUCTION**

Citizenship and immigration are both issues of national competence in Italy. In general, the most recent modifications on immigration (Law 2002) restricted the conditions to enter Italy and put limits on the possibilities for immigrants to get settled. Since the 2002 law, all immigrants applying for a permit to stay (permesso di soggiorno) need to have their fingerprints taken upon their first entry into Italy. The 2002 law introduced a working contract ('contratto di soggiorno') to be issued before asking for a permit to stay for working reasons and increased from five to six years the period of residence required for a non-EU citizen to qualify for a long term permit to stay. The 2002 law also increased repressive measures and set up further expulsion measures.

On its side, access to Italian citizenship is regulated by a 1992 Law which has itself aggravated the possibilities for foreigners to access rights granted to Italian citizens. With respect to the previous 1912 law, a process of re-ethnicization of citizenship has increased from 5 to 10 years of residence the required length of residence to obtain the Italian citizenship for non EU foreigners.<sup>59</sup>

Although citizenship and immigration are both issues of national competences, municipalities are, nonetheless, responsible for the actual implementation of national and regional legislation and are relevant in several fields like lodgement assistance, social and health assistance, professional training, and extra-curricula activities as intercultural education and cultural promotion.

Most information included in this report derives from the consultation of the national and local legislative frames as well as administrative documents. In particular laws regard:

#### **National laws of reference:**

##### ***Citizenship***

- Law 5 February 1992, n.91 – New norms on citizenship;
- Law 14 December 2000, n.379: provisions regarding the recognition of the Italian citizenship to people born and resident on the Italian territories belonging to the Austro-Hungarian Empire as well as to their descendants.

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<sup>58</sup> This report was prepared by Katia Pilati, a researcher in the Italian LOCALMULTIDEM team.

<sup>59</sup> The required length is 4 years for EU citizens.

ASGI. 2005. LA partecipazione politica degli stranieri a livello locale – Working paper, FIERI.

### ***Immigration***

- Law 30 December 1986, n.943 – Norms on the disposal and treatment of extra-community immigrant workers and against clandestine immigration<sup>60</sup>;
- Law 28 February 1990, n.39 –Norms concerning the political asylum, entrance and residence permits of extra-community citizens and the regulation of extra-community citizens and stateless people who are present on the Italian territory (Law Martelli<sup>61</sup>);
- L. 8 March 1994, n.203 –; Ratification and execution of the Convention on the participation of foreigners to local public life, signed in Strasbourg, 5 February 1992;
- Law 6 March 1998, n. 40 – Discipline of immigration and norms on the condition of foreigners (Law Turco-Napolitano);
- Decree Law D. Lgs., T.U. 25 July 1998, n.286 consolidation act on provisions concerning the regulation and norms on the condition of foreigners<sup>62</sup>;
- Law 30 July 2002, n 189 – Modification of immigration and asylum norms - (Law Bossi-Fini);

### ***Discrimination***

- Law 25 June 1993 n. 205 - Measures regarding racial, ethnic and religious discrimination (Law Mancino);

### ***Local legislation***

#### REGION LOMBARDIA:

- Regional Law 4 July 1988, n.38.

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<sup>60</sup> This is the first Italian law addressing issues on immigration. Extra-community citizens define citizens who are not part of the European Union.

<sup>61</sup> One of the main objective of this law was to regulate the presence of clandestine immigrants in Italy.

<sup>62</sup> L. 286/1998 homogenize all precedent laws. D.P.R. 31 August 1999 n.394 implements it.

## **INSTITUTIONAL POS INDICATORS**

### **I – INDIVIDUAL RIGHTS**

#### **1. ACCESS TO THE COMMUNITY**

##### **a) Short-term permits**

All foreigners (*extracomunitari*) planning to remain in Italy for longer than 90 days must apply for a ‘permit to stay’ (*permesso di soggiorno* or *carta di soggiorno*) at the local police headquarters (*questura*) within eight days after their arrival.

There are many types of permit to stay, the most common of which include the following ones:

- Permesso di soggiorno per turismo – for tourists. Technically anyone visiting Italy for over a week who isn’t staying in a hotel, boarding house or an official campsite should apply for one, although in practice this rarely happens;
- Permesso di soggiorno per coesione familiare – for the foreign spouse and children of an Italian citizen when they move to Italy together;
- Permesso di soggiorno per lavoro – a work permit for an employee;
- Permesso di soggiorno per lavoro autonomo/indipendente – for independent or freelance workers;
- Permesso di soggiorno per studio – for students;
- Permesso di soggiorno per ricongiungimento familiare – for the spouse, children (under 18) and dependent parents of foreigners married to Italian citizens and also for family members from overseas who come to join others already in Italy (see Family Members below);
- There are also permits to stay for various other special cases, including refugees and employees of religious missions.

A permit to stay isn’t a residence permit, which must be applied for after having the permit to stay if foreigners wish to become formal residents. If a foreign citizen has a permit to stay and resides in Italy, he/she can enrol in the General Registry Office and obtain an identity card that is valid for the length of the permit to stay. He/she can also obtain the tax identification number, the means by which the Ministry of Finance identifies citizens. With the tax number, it is possible to enrol in the National Health Service, be hired for dependent work, begin an own self-employed activity, sign any type of contract (e.g. house rental, sale etc.), open up a bank account.

Any non-EU citizen who is not in possession of a permit to stay is expelled by administrative order. After expulsion, the 2002 law on immigration forbids the re-entrance into Italy for a period of twelve years, and expelled foreigners who re-enter Italy without a permit to stay commit an offence.

<b>1. Automatic acquisition of the permit if mother or father of a national minor child</b>
Parents of an Italian minor who resides in Italy can ask for a permit to stay for familiar reasons ( <i>Permesso di soggiorno per motivi familiari</i> ). This permit is also given in cases in which the parent does not have a regular permit.
<b>Scores:</b>
<b>General score : 1</b>
<b>Filipinos: 1</b>
<b>Egyptians: 1</b>
<b>Ecuadoreans:1</b>
<b>2. Automatic acquisition of the permit if marriage with a national</b>
Marriage with a national allows the foreign persons to ask for a permit to stay for family reasons.
<b>Scores:</b>
<b>General score : 1</b>
<b>Filipinos: 1</b>
<b>Egyptians: 1</b>
<b>Ecuadoreans:1</b>
<b>3. Economic resources requirement</b>
In general, while in Italy, the foreign citizen should always be able to demonstrate, with valid documents, the following three things: <ul style="list-style-type: none"> <li>- the reasons for and conditions relevant to residency;</li> <li>- the means of financial support;</li> <li>- that such financial means are sufficient for the length of the stay and for the return in one's home country.</li> </ul> Economic resources requirement mainly regard the conditions for the renewal of the permits (both work permit and other typologies like the student permit or the family reunion permit). In order to renew the permit to stay, foreigners need to attest the availability of an income from work or other legal sources for the sustainance of the foreigner and its family members <sup>63</sup> . The minimum required is equal to the social income (around 4800 euros a year). In case of a work permit the employer must also give the guarantee that accommodation is available and that such accommodation fulfils the "minimum parameters" established for public housing provision.
<b>Scores:</b>
<b>General score : -1</b>
<b>Filipinos: -1</b>
<b>Egyptians: -1</b>
<b>Ecuadoreans: -1</b>
<b>4. Link between work regime and permit regime</b>
In order to get the working permit as employee (' <i>Permesso di soggiorno per lavoro subordinato</i> ') or to renovate it, foreigners need to have a working contract first. In order to get a working permit for autonomous work (' <i>Permesso di soggiorno per lavoro autonomo</i> '), foreigners need to have the authorisation required to be able to work in the field and to be enlisted on the commerce registers if necessary. Moreover, entrance and residence in Italy for a contract work, are regulated accordingly to the annual Decrees by the Prime Minister which determines maximum quotas of admission into Italy.
<b>Scores:</b>

<sup>63</sup> DPR 394/99 modificato da DPR 334/2004

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

**5. Grounds for withdrawal:**

- a. proven fraud in the acquisition of permit**
- b. sentence for serious crimes**
- c. actual and serious threat to public policy or national security**
- d. insufficient level of resources**

The permit to stay is withdrawn or the renewal is refused in case the conditions required for either entering or staying in Italy lack. The presence of any condemn for a grave crime is considered a condition for refusing or withdrawing the permit. Actual and serious threat to public policy or national security are followed by expulsion.

The permit to stay can be withdrawn and the foreigners expelled from Italy if she/he does not show, under request by authorities, to have sufficient and legal sources for his/her sustain. The refusal or the withdrawal are also adopted in case of international obligations or conventions (if the conditions to stay on a third state are not satisfied) except for cases of humanitarian aid.

In case of a working permit to stay, the loss of the job does not imply the withdrawal of the permit<sup>64</sup>. In this case, foreigners need to ask for a permit of stay issued specifically while waiting for an employment which lasts at least 6 months.

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

**b) Long-term residence permits (duration of validity:  $\geq 5$  years)**

Whereas EU citizens can apply for the *Carta di Soggiorno* immediately after their arrival in Italy, non-EU citizens have usually to apply for several ‘*Permesso di Soggiorno*’ before having accumulated enough time as residents in Italy to apply for the long term permit. The period of residence required for a non-EU citizen to qualify for a long permit has increased from five to six years with L. 189/2002. This permit has an undetermined length of stay, it does not expire, and needs to be renewed periodically if foreigners want to use it as a form of identification. The ‘*carta di soggiorno*’ does not have an expiring date, but must be reconfirmed within 10 years of its issue.

With a ‘*carta di soggiorno*’ foreigners can:

- enter Italy without a visa;
- carry out any legal working activity in Italy;
- make use of Public administration services;
- participate in public life.

This long-term permit can be both issued to foreigners as well as their family if legally resided in Italy for at least six years and if holding a valid permit to stay issued on grounds that allow for continuity of renewal (i.e. permit to stay for permanent employment, self employment or family but not for study, seasonal employment).

<sup>64</sup> L 189/02 art. 22, c.11

## **6. Automatic acquisition of the permit if mother or father of a national minor child**

Foreigners who are parents of a national or EU minor child can ask for a long term permit to stay if living in the same household.

**Scores:**

**General score : 1**

**Filipinos: 1**

**Egyptians: 1**

**Ecuadoreans:1**

## **7. Automatic acquisition of the permit if marriage with a national**

Foreigners who get married with an Italian citizen, with a EU citizen or with a foreign citizen holding a ‘carta di soggiorno’ can obtain a ‘carta di soggiorno’. A ‘carta di soggiorno’ can be asked by the foreign husband/spouse of an Italian citizen or a EU citizen under the condition of proving to have a sufficient income to sustain the family and the certificate of the marriage.

**Scores:**

**General score : 1**

**Filipinos: 1**

**Egyptians: 1**

**Ecuadoreans:1**

## **8. Required minimum time of habitual residence**

According to Law 189/2002 foreigners need to have 6 years of residence to obtain it.

**Scores:**

**General score : 0**

**Filipinos: 0**

**Egyptians: 0**

**Ecuadoreans:0**

## **9. Economic resources requirement**

The minimum income to obtain the ‘carta di soggiorno’ is equivalent to the retirement subsidy, namely around euro 4500 per year. The amount is updated at regular intervals. If the ‘carta di soggiorno’ is issued to non EU foreigners with family in Italy (the foreigner can apply both for him/herself and for the partner and children), the head of the household is expected to earn a sufficient income to be able to support the whole household, an amount proportionally equivalent to the welfare subsidies. The family is expected to have a suitable accommodation, complying with the rules laid down in the regional law on low-rent housing. In Lombardy the law establishes that a dwelling with at least one room (and a bathroom) is fit for a family of 1 or 2; a family of 3 must have a dwelling with at least 2 rooms (plus bathroom) ; a family of 4 or 5 at least 3 rooms; a family of 9 or more at least 6 rooms.

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

## **10. Percentage of given permits over the total number of applications – National level**

The data are not available.

**Score: NA**

## **11. Grounds for withdrawal:**

- a. proven fraud in the acquisition of the permit**
- b. sentence for serious crimes**

**c. actual and serious threat to public policy or national security**  
**d. insufficient level of resources**

Among the requirements to obtain the '*carta di soggiorno*', a non-EU foreign worker needs to meet the following conditions:

- has not been convicted and is not being sued for offences or crimes falling under penal laws for which the Italian law envisages imprisonment(articles 380 and 381 of the Italian penal code)
- is not considered dangerous for public order and public safety

The application for the '*carta di soggiorno*' must be in fact accompanied by a certificate of criminal record (certificate del casellario Giudiziario) and a certificate of 'pending lawsuits' (certificate dei 'carichi pendenti')

This permit can be withdrawn if the foreigner is condemned for crimes falling under penal laws even if this is not definitive. The holder of a permanent permit to stay can be expelled on the grounds of public order or State-security related reasons.

A sufficient level of resources is a requirement to obtain the release of the long term permit to stay but it is not a reason for withdrawing it.

**Scores:**

**General score : 0**

**Filipinos: 0**

**Egyptians: 0**

**Ecuadoreans: 0**

**12. Expulsion precluded**

**a. after 20 years of residence as a long-term residence permit holder**

**b. in case of minors**

**c. residents born in the host country or admitted before they were 10, once they have reached the age of 18**

No expulsion precluded

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

**c) Access to nationality**

The 1992 law on citizenship confirms the application of the principle of *ius sanguinis*, by which people whose parents have the Italian *status civitatis* automatically become Italian citizens. By this, anyone whose mother or father has an Italian citizenship acquires the Italian citizenship regardless of the country of birth.

The acquisition of citizenship by other forms, can be obtained either through marriage or through residence. Foreigners who are married with Italians acquire the Italian citizenship after 6 months of legal residence in Italy, or after 3 years of marriage if their residence is abroad. Naturalization by residence is possible for EU foreigners who have been residing in Italy for at least 4 years and for non-EU foreigners who have been legally residing for at least 10 years.

**13. Eligibility for second and third generation immigrants (*jus soli*)**

The 1992 law states that the acquisition of the Italian citizenship by *ius soli* for the second generation is only possible for people born by foreigners in Italy and who have been legally

residing without interruption until the age of 18 years. The request can be made before one year of full age (18 yrs) by declaring the intention to acquire it.

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

#### **14. Marriage with a national**

Foreigners may become Italian citizens if they are the spouse/husband of an Italian citizen and have been residing legally in Italy for at least six months or have been married for three years (and there has been no legal divorce or annulment or process of separating).

**Scores:**

**General score : 1**

**Filipinos: 1**

**Egyptians: 1**

**Ecuadoreans: 1**

#### **15. Required minimum time of habitual residence**

The request for obtaining the Italian citizenship due to residence can be made if foreigners have been living legally in Italy for at least ten years; if foreigners are stateless or a refugee and have lived in Italy for at least five years; if foreigners are citizens of a European Community member state and have lived in Italy for at least four years.

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

#### **16. Economic resources requirement**

No.

**Scores:**

**General score : 1**

**Filipinos: 1**

**Egyptians: 1**

**Ecuadoreans: 1**

#### **17. Percentage of approved naturalizations over the total number of applications – National level**

The data are not available.

**Score: N.A.**

#### **18. Grounds for withdrawing status**

**a. proven fraud in the acquisition of citizenship**

**b. actual and serious threat to public policy or national security**

No information found on these 2 specific points.

**Score: NA**

## **2. FAMILY REUNION**

The rights for family reunion first set by the 1998 law and afterwards restricted by L.189/2002, is only granted to foreigners who have a permanent residence permit or a permit to stay lasting no less than one year. In case of family reunion, the length for a permit can not exceed the 2 years. The right to family reunion is possible for:

- the spouse/husband (not separated)
- minor children
- dependant children aged over 18 if for objective reasons they are unable to support themselves because of a state of health which constitutes total invalidity;
- parents if they have no other children in the country of origin or provenance, i.e. parents aged over sixty-five if they cannot be supported by other children for severe and documented health reasons.

Except for refugees, foreigners need to prove to have a suitable accommodation and a sufficient income in order to support the family reunion. Non-EU family members don't have the right to work in Italy unless they have their own working visa.

## **19. Eligibility for legal residents**

The family reunion can be requested by foreign citizens who either have a long term permit to stay ('carta di soggiorno') or a permit to stay whose duration is at least one year.

**Scores:**

**General score : 0**

**Filipinos: 0**

**Egyptians: 0**

**Ecuadoreans: 0**

## **20. Economic resources requirement**

The minimum required resource is to have an income not lower than the annual social assistance amount (around 4,500 euros). Foreign citizens also need to prove to have a house respecting the minimal criteria required by the regional law on public constructions.

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

## **21. Duration of validity of permit**

The permit to stay issued for family reasons has the same duration of validity of the permit to stay of the foreign family member who has the requirements for the family reunion and the permits can be renovated together.

**Scores:**

**General score : 1**

**Filipinos: 1**

**Egyptians: 1**

**Ecuadoreans: 1**

## **22. Grounds for withdrawing the status:**

- a. Public policy or security major threat
- b. Proven fraud in the acquisition of permit (inexistent relationship or misleading information).
- c. **Break-up of family relationship (before three years)**

In addition to security reasons, the permit to stay for family reunion can be revoked in case of legal separation. The only fact of non cohabiting anymore together is enough to withdraw the permit even though the marriage has not been broken yet<sup>65</sup>. Moreover, economic resource requirements need to be sufficient (see indicator 3).

**Scores:**

**General score : -1**

<sup>65</sup> Consiglio di Stato, sentenza n. 767 del 28 febbraio 2005

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

### **23. Right to autonomous residence permit for partners and children**

The permit to stay for family reasons can be converted to a permit for dependent or autonomous work as well as for study in the following cases:

- death of the family member who has the conditions for the family reunion;
- in case of legal separation or end of marriage;
- in case the child can not obtain the long-term permit to stay (carta di soggiorno) once 18 years old.

**Scores for partners: -1 (under the above mentioned conditions)**

**Scores for children: 1 (under the above mentioned conditions)**

**General score : 1**

**Filipinos: -1 partners / 1 children**

**Egyptians: -1 partners / 1 children**

**Ecuadoreans: -1 partners / 1 children**

### **24. Percentage of entrances in the territory through family reunion over the total number of applications – National level**

The data are not available.

**Score: N.A.**

## **3. SOCIAL AND ECONOMIC RIGHTS**

### **a) Labour market access**

There are different permits applying to different working conditions among which:

#### ***Work permit to stay for employees***

Italy has several restrictions on the employment of non-EU nationals. The 1998 Immigration Law introduced a quota system that restricts the number of people of any nationality and category allowed into the country each year. Work permits for non-EU nationals must be obtained outside Italy, where an application for working authorisation must be made at the local Italian embassy. The employment of non-EU nationals must be approved by the Italian labour authorities who can propose the employment of an EU national instead of a non EU foreigner (although this is rare). It's impossible to convert a tourist visa into a working visa and therefore non-EU national need a visa to work in Italy, and must obtain it before the arrival in the country.

#### ***Work permit to stay for self-employed***

EU-nationals or foreigners with a resident permit can work as self-employed (lavoro in proprio) or as traders (commercante in proprio) in Italy. To be able to work as self-employed in a profession or start a freelance business in Italy, people must meet certain legal requirements and register with the appropriate organisations, e.g. the local chamber of commerce (camera di commercio). A self-employed worker needs a specific permit to stay '*permesso di soggiorno per lavoro autonomo*'. Under the Italian law, a self-employed person must have an official status and must provide evidence of their status, such as membership of a professional or trade body, a VAT number, or registration on a trade register.

#### ***Work permit for seasonal work***

Italian or foreign employers legally residing in Italy, and trade associations on behalf of their associates which intend to establish a seasonal working relationship in Italy must present a registered request to the areas' department office of the Ministry of Labour and Social Security. The Ministry of Labour will issue an authorization, valid for the duration of the seasonal work required, and for a maximum of 6 or 9 months. The seasonal work permit can be converted into work permit for dependent labour.

- ***Short-term permits***

**25. Access to employment**

There are legal limitations in both public and private sectors.

In order to enter civil employment in the public administration candidates need to have an Italian citizenship, except for EU citizens who can enter public administrations if the position does not imply any direct or indirect exercise of public power or attempt to the national interest<sup>66</sup>.

Quotas regarding access to Italy regulate flows of workers into the private labour market every year. Each year the Prime Minister establishes the number of foreigners to be employed as dependent workers, seasonal workers and autonomous workers<sup>67</sup>. The last immigration law (L.189/2002) introduced further numerical restrictions on workers coming from States that do not collaborate against clandestine immigration whereas workers of Italian origin and EU citizens are privileged. According to this law, annual quotas have to be defined along provincial and regional needs. As to seasonal workers those who have been previously employed in Italy have priority over other workers<sup>68</sup>. According to the 2002 law, in order to employ foreign workers, employers need to apply for an authorization, to prove to have a suitable accommodation for housing them and to be able to financially support their return trip to their countries of origin.

Access to professional activities is restricted to a limited number of persons established by the annual decree which determines entry working quotas to Italy in accordance with agreements taken with professional corporations. In order to be able to work autonomously or in industrial, professional artisans or commercial activities and even to set up a society, foreigners need to demonstrate to have sufficient resources as well as moral and professional entitlements for the activity (for example, to be registered in special professional registers), to declare that no obstacles for the authorization exist (for example in the recognition of professional titles), to declare the availability of resources to be able to pursue their activity, to have a suitable accommodation and a housing contract, and an annual salary superior to the minimum standard required for the exemption from the health assistance service<sup>69</sup>.

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

**26. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit to stay**

The working permit to stay is submitted to a working contract ("contratto di soggiorno per

<sup>66</sup> DPR 487/1994. Foreigners obtain the authorization for working in the public sector only for special cases, for example as university lectures, researchers or professors, professional nurses (L. 189/2002 art.27 and L.40/1998 Art. 25).

<sup>67</sup> see D. Lgs. 286/1998 art. 3-21 - migrant politics and quotas on entry flows (L.40/1998 Art. 3-19)

<sup>68</sup> L. 189/2002 art.24-25

<sup>69</sup> D.Lgs. 286/1998 art. 26 (L.40/1998 Art. 24)

*lavoro subordinato")* which is necessary and compulsory for the release or renovation of the working permit to stay. However, in case of a working permit to stay, the loss of the job does not imply the immediate withdrawal of the permit<sup>70</sup>. In this case, foreigners need to ask for a permit to stay which lasts at least 6 months specifically issued while waiting for an employment.

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

- *Long-term residence permits (duration of validity:  $\geq 5$  years)*

**27 Access to employment**

In order to enter employment in the public administration candidates need to have an Italian citizenship, except for EU citizens who can enter public administrations if the position does not imply any direct or indirect exercise of public power or attempt to the national interest. There are no restrictions in the private labour market.

**Scores:**

**General score : 0**

**Filipinos: 0**

**Egyptians: 0**

**Ecuadoreans: 0**

**28. Unemployment is a reason for revoking or refusing to renew his/her permit to stay**

No

**Scores:**

**General score : 1**

**Filipinos: 1**

**Egyptians: 1**

**Ecuadoreans: 1**

**b) Welfare state access**

- *Illegal immigrants*

**29. Access to social security, social assistance and healthcare for illegal immigrants**

Welfare benefits can be only asked by foreigners who reside in Milan, stateless people, asylum seekers and refugees with a valid permit to stay<sup>71</sup>. The health assistance to irregular foreigners is only granted for emergencies and maternity care through a special health card for 'temporary present foreigners' STP (straniero temporaneamente presente).

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

<sup>70</sup> L 189/2002 art. 22, c.11

<sup>71</sup> Art 4. of the 'Regolamento per gli interventi e servizi sociali del Comune di Milano (approvato con deliberazione del Consiglio Comunale n.19 del 6 Febbraio 2006, rettificato il 23 feb, 2006)'

## **Ecuadoreans: -1**

### *- Short-term permits*

#### **30. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support**
- b. minimum housing support**
- c. family and child benefits**
- d. assistance in case of illness**
- e. pregnancy and maternity care**
- f. long-term care**

Housing support and application for public lodgement can be requested by Italian or EU citizens as well as by resident foreigners or foreigners who can prove to have been employed continuously for the previous 5 years<sup>72</sup>. Minimum income support can be requested by immigrants with a valid permit to stay<sup>73</sup>. Enrolment in the National Health Service (SSN) can be done by foreigners holding a permit to stay with a validity of at least one year as well as a residency certificate. Health care is provided to the registered person as well as to his dependent family members legally admitted.

Family and child benefits are also issued to non EU resident foreigners.

**Scores:**

**General score : 0**

**Filipinos: 0**

**Egyptians: 0**

**Ecuadoreans: 0**

### *- Long-term residence permits*

#### **31. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support**
- b. minimum housing support**
- c. family and child benefits**
- d. assistance in case of illness**
- e. pregnancy and maternity care**
- f. long-term care**

When holding a long term permit to stay ('carta di soggiorno'), a foreigner has the same rights as Italian citizens as to social assistance services ; e.g. he/she can obtain the subsidies provided to women with large families or a social pension or the maternity welfare benefits (assegno di maternità)<sup>74</sup>.

**Scores:**

**General score : 1**

**Filipinos: 1**

**Egyptians: 1**

**Ecuadoreans: 1**

<sup>72</sup> Regolamento regionale 1 del 10 febbraio 2004 e successive modificazioni e integrazioni

<sup>73</sup> Art 4. of the 'Regolamento per gli interventi e servizi sociali del Comune di Milano (approvato con deliberazione del Consiglio Comunale n.19 del 6 Febbraio 2006, rettificato il 23 feb, 2006)'

<sup>74</sup> L.448/1998 art.66, L.488/1999 art.121

## 4. ANTI-DISCRIMINATION RIGHTS

### 32. Legislation against ethnic discriminations<sup>75</sup>

The first specific legal act approved with the aim of combating racism and discrimination is a 1993 law which specifically concerns “Measures regarding racial, ethnic and religious discrimination”. It concerns the diffusion of ideas based on superiority or racial and ethничal hatred, as well as against claims or violent actions based on racial, ethnic, national or religious discriminations. This law also forbids any organization, association, movement or group which adopts the same forms of discrimination. The law also punishes any act showing discriminating symbols and the exalt of principles, methods and facts related to fascism or racial ideas. The fight against discrimination is also dealt with in the 1998 law on immigration and regards the political, economical social, cultural and other public domains. Penalties vary from detention to money sanctions. The diffusion of ideas based on ethnic or racial discrimination was punished with imprisonment up to 3 years till a modification in 2006 which lowered the imprisonment to maximum 1 year and 6 months or with a fine of 6000 euros<sup>76</sup>.

**Score: 1**

### 33. Types of sanction in case of racially discriminatory hiring

The 1998 law on immigration protects against employers' acts and behaviors discriminating workers. According to the 1998 law, civil action procedures (not penal ones) can be taken against discriminating acts by private persons, by the public administration or in relation to employment opportunities, salaries, task assignments and qualifications or firing rules; sanctions in this case do not include imprisonment.

**Score: -1**

### 34 Public structures dealing with ethnic discriminations

The 1998 Italian law on immigration stresses the importance for the Regions, in collaborations with the provinces and the municipalities, with the associations of immigrants and social volunteers, to provide the establishment of centers for monitoring, informing and aiding the victims of discrimination on the grounds of race, ethnic group, nationality or religion. Moreover, a number of Institutes for Research into Discrimination are already in operation (the National Institute for Research into Xenophobia and the Institute of the Region of Piedmont for Research into Racism, Antisemitism and Xenophobia in Italy). No available information if and how the centers are operating in Milan.

**Score: 0**

## 5. POLITICAL RIGHTS

### 35. Right to vote in local elections

In 1994 Italy ratified Protocol A and B of the 1992 Convention of Strasbourg which respectively concern the right to expression, assembly and association and the right to set up consultation boards for foreign residents. However, Italy did not ratify protocol C of the

<sup>75</sup> see

[http://www.coe.int/t/e/human\\_rights/Minorities/2.\\_FRAMEWORK\\_CONVENTION\\_\(MONITORING\)/2.\\_Monitoring\\_mechanism/3.\\_State\\_Reports\\_and\\_UNMIK\\_Kosovo\\_Report/1.\\_First\\_cycle/PDF\\_1st\\_SR\\_Italy.pdf](http://www.coe.int/t/e/human_rights/Minorities/2._FRAMEWORK_CONVENTION_(MONITORING)/2._Monitoring_mechanism/3._State_Reports_and_UNMIK_Kosovo_Report/1._First_cycle/PDF_1st_SR_Italy.pdf)

<sup>76</sup> L. 85/2006

same Convention which aims to provide the administrative right to active and passive vote at local elections to all foreigners who have been regularly residing for at least 5 years<sup>77</sup>. Local voting rights are thus not allowed.

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

### **36. Right to stand for local elections**

See above

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

## **II – CULTURAL/GROUP RIGTHS**

### **1. CULTURAL REQUIREMENTS TO ACCESS THE COMMUNITY**

#### **37. Cultural requirements for obtaining short-term permits**

No.

**Scores:**

**General score : 1**

**Filipinos: 1**

**Egyptians: 1**

**Ecuadoreans: 1**

#### **38. Cultural requirements for obtaining long-term residence permits**

No.

**Scores:**

**General score : 1**

**Filipinos: 1**

**Egyptians: 1**

**Ecuadoreans: 1**

#### **39. Cultural requirements for naturalization**

No.

**Scores:**

**General score : 1**

**Filipinos: 1**

**Egyptians: 1**

**Ecuadoreans: 1**

<sup>77</sup> EU citizens who are resident in Italy are equaled to Italians and can vote and candidate for city and district councils. However, they can not candidate for posts as Mayor or District President.

## 2. LANGUAGE PROGRAMS

### 40. Host-country language programs for immigrant adults

Specific centers 'Centri Territoriali Permanenti' set up by the Municipality of Milan offer free courses subsidized by the Ministry of the Education whose target are adults in education and training. Among organized courses, such centres also offer language programmes for immigrant adults.

**Score: 1**

### 41. Host-country language programs for immigrant children

The only available information concerns courses organized by the Municipality of Milan for people over 5 years old during 2006/2007 school year. With the aim to improve the integration in the school system of recent immigrants' children under 18 years old and pupils were also taught Italian.

**Score: 1**

## 3. SCHOOLING

### 42. Possibility of public funding for Muslim private owned schools (full-time schools)

There are no Islamic schools in Milan subsidized by public funds but Catholic schools are<sup>78</sup>.

**Score: -1**

### 43. (if there is a possibility) Number of public-funded Muslim schools (full-time schools)

0

**Score: -1**

### 44. Possibility of public funding for other minority group private-owned schools (full-time schools)

Most funds for private-owned schools are directed to Catholic schools. No specific information was found on the funding of minority group private-owned schools.

**Score: 0**

### 45. (if there is a possibility) Number of public-funded minority group schools (full-time schools)

None.

**Score: 0**

### 46. Cultural/language courses for pupils of minority groups inside public schools

According to the 1998 law, the State, the Regions, the Provinces and the municipalities sustain schools and cultural institutions which organize specific activities for foreigners, like for example, special courses in the language and culture of origin. The law sustains the diffusion of useful information for foreigners' social integration, the knowledge and valorization of cultural, social and recreational expressions. It also supports library collections of documents concerning foreigners' countries of origin and the organization of training courses inspired by multicultural principles aiming at preventing discriminatory

<sup>78</sup> In general, the Italian Constitution states that all religions are equally free before law and that religious groups can regulate their relationships to the State by special agreements. However, not all religions have set up an agreement. The existing agreements concern Christian Catholicism, the "Tavola Valdese", the God Assemblies in Italy, the Adventist churches, the Jewish, the Evangelic Churches, the Lutheran churches and there is no agreement between the Italian State and Islamic communities. This implies indirect public financing of Catholic Church related activities. Every citizen can give 8% of the yield of IRPEF taxation to one of the following: State, Catholic church, Adventist churches, God Assemblies in Italy, the "Tavola Valdese", the Jewish, the Evangelic Churches, the Lutheran churches (in 2001, 87,25 was given to the Catholic Church).

behaviors. Although the law supporting these courses exists, no information on its implementation in Milan was found.
<b>Score: 0</b>
<b>47. Change in public schools' curriculum to take into account the cultural diversity of society</b>
There are some pilot and experimental experiences funded by the government among which the introduction of courses for teachers to teach Italian as a second language but these are limited events. No significant change in the curricula has been found.

#### 4. RELIGION<sup>79</sup>

<b>48. Religious education in public schools</b>
As foreseen by an agreement signed in 1984, only Catholic religion can be taught in public schools. The attendance of religious classes is not compulsory and students from other religions can ask to be exempted from these lessons. Other religions are not taught in public schools.
<b>Score: -1</b>
<b>49. Islamic religious signs in the public sector</b>
There is no legal frame regulating this and no specific information found for Milan.
<b>Score: N.A./0</b>
<b>50. Islamic religious signs in the private sector</b>
No information found.
<b>Score: N.A./0</b>
<b>51. Islamic breaks for praying</b>
Laws regarding religion and working conditions grant to all workers the possibility to have sufficient time for obligations requested by their cults; they also exclude the possibility of firing workers due to their religious faiths and grant workers the possibility of manifesting their faith on the place of work <sup>80</sup> . These laws were not specifically meant to deal with Islamic breaks for praying though. No information was found on the implementation of this right in Milan.
<b>Score: N.A./0</b>
<b>52. Cemeteries and burial according to Islamic rite</b>
The possibility of using special spaces in the cemetery to be used for Islamic rituals is regulated by a 1990 law <sup>81</sup> . Special and separated sections in cemetery plans can be arranged for the burial of people professing a cult which is different from Catholicism. City Mayors can also grant to foreign communities a special area of the cemetery aimed at the burial of their co-nationals. Specifically, the municipality of Milan has signed an agreement with the Islamic Center of Milan and Lombardia (CIML) and the Cultural Islamic Institute (ICI) by which part of a cemetery in Milan will have a new area for the burial of people of Islamic religion either residing or whose death has happened in Milan. Some aspects of the Islamic

<sup>79</sup> Osservatorio delle libertà ed istituzioni religiose. 2005. *Il trattamento giuridico della minoranza islamica in Europa Tavola sinottica*. A cura di Laura De Gregorio, da:

Bluffi Beck Peccoz R. Zincone G.2004. *The legal treatment of Islamic minorities in Europe*, Leuven: Peters.

<sup>80</sup> L. 2 April 1958 n.339, L. 15 July 1966 n. 604 and L. 20 May 1970, n.300

<sup>81</sup> D.Lgs. 1 Sept. 1998 , n. 333 and Law 12 October 1990.

rites of burial are accepted, like the orientation of the graves towards the Mecca, but not the burial into the earth without coffins<sup>82</sup>.

**Score: 0**

**53. Local public budget for mosques (building and managing)**

No information on budget for funding mosques in Milan was found.

**Score: N.A.**

## 5. MEDIA

**54. Islamic religious programs in public and state-subsidized private broadcasting (not including cable and satellite)**

None.

**Score: -1**

**55. Programs in public and state-subsidized private broadcasting (not including cable and satellite) for other minority groups or for the whole immigrant population**

The only existing programme in the region Lombardia has private sponsors (Magazine latino based in Monza -Mi)

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

## 6. LABOUR MARKET: GROUP RIGHTS

**56. Affirmative actions for ethnic minorities in the private sector**

There is no affirmative action for migrants.

**Scores:**

**General score : -1**

**Filipinos: -1**

**Egyptians: -1**

**Ecuadoreans: -1**

**57. Affirmative actions for ethnic minorities in the public sector**

The national statistical institute (ISTAT) started collecting information on the foreign labor force in 2005.

**Scores:**

**General score : 0**

**Filipinos: 0**

**Egyptians: 0**

**Ecuadoreans: 0**

**58. Measures to further the integration of foreigners in the labour market**

**a. policy targets to reduce unemployment of foreigners**

**b. policy targets to promote vocational training for foreigners**

No specific measures are adopted. Foreigners can have access to the courses offered by the centres 'Centri Territoriali Permanenti' of the Municipality of Milan subsidized by the

<sup>82</sup> Islamic rites of burial are not allowed in Italy except for the only existing Islamic cemetery in Trieste which exists since 1849 when Trieste was ruled by the Austro-Hungarian empire.

Ministry of the Education whose target are adults in education and training. The objective of these courses is aimed to obtain a title of primary education or first degree of secondary education ('Titolo di licenza elementare', 'Titolo di licenza media, Attestato delle attività di professionalizzazione o di riqualificazione professionale'). Specific courses for foreigners only include language programmes (see also indicator 40).

**Score: -1**

### **III - GENERAL POS**

#### **1. CONFIGURATION OF POWERS**

##### **59. Degree of federalism and decentralization**

Italy is included among 'unitary and centralized' systems with an index of federalism of 1.3 between 1945 and 1996.

**Score: 1.3**

##### **60. Decentralization at the local level: sub-local public structures (at the level of district, neighbourhood) with political powers**

Milan is divided into 9 area councils 'Consigli di Zona' which define the decentralized structures of the municipal administration. Every area council is made up of 41 Counsellors who are directly elected by resident citizens with voting rights in parallel with the elections of the Municipality Council.

The area councils are aimed at the participation, consultation and implementation of services but have no political power. In particular, the area councils implement the management and function of basic services and can advise the central administration on proposals related to public works, parks, security, housing, changes in the urban plan etc. They can promote local referenda, receive proposals by citizens as well as promote associations on different activities<sup>83</sup>.

**Score: 0**

##### **61. Power distribution in the city**

The mayor has the following tasks:

- communicating and coordinating major events regarding the Municipality and its external relationships
- controlling and managing the Municipality Police;
- controlling and managing the economic plans (decision on entries and exits, on investments, strategies of buying services and goods, definition of local taxation);
- defining security policies.

The local government ('Giunta') is headed by the mayor and is composed of 16 members. It collaborates with the mayor on the definition and control of administrative and political strategies.

The city council ('Consiglio Comunale') is composed by the Mayor and 60 councillors. It defines the political and administrative strategies of the Municipality and checks for its implementation. It approves or refuses new proposals, initiatives, projects presented by the Mayor and the local government or by single councillors or on specific issues such as public works, tariffs on public services. The city council also nominates and designates the representatives of the Municipality in institutions, defines the programmes in several sectors, defines the annual budget.

Council commissions (Commissioni consiliari) organize the city council works by working on specific tasks and sectors.

⇒ **Balance of powers**

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<sup>83</sup> L. 59/97 art. 4;

L.265/1999;

D.Lgs.n.267/2000;

Statuto del Comune di Milano adottato con deliberazione n° 653/91 e successive modificazioni;

Regolamento del Decentramento Territoriale adottato con deliberazione n° 26/97;

Regolamento per l'elezione dei Consigli di Zona adottato con deliberazione n° 16/99;

Regolamenti interni adottati dai singoli Consigli di Zona.

## 62. Electoral systems – Local level

The city council is elected through direct voting by resident citizens in parallel with the elections of the area councils. The lists which have obtained the relative majority with a percentage of valid votes lower than 40 % are given a number of seats (segni) equivalent to 55 % of the councillors to be elected. The other 45 % is proportionally given to other lists. If the relative majority overcomes the 40 % but not 60%, the number of given seats is equivalent to 60 % of the number of councillors to be elected. If the relative majority overcomes the 60 %, the seats are distributed in a proportional manner.

**Score: 0**

## 63. Party systems in the city

**Multiparty system** aggregated in 2 main coalitions: Casa delle Libertà (Forza Italia, Lega Nord, UDC, Alleanza Nazionale) and l'Unione (Laici socialisti Liberali Radicali, l'Ulivo, rifondazione Comunista, Verdi)

## 64. Party(ies) in the city (one party/a coalition of parties)

For the last 10 years a **coalition of center-right parties** has been governing Milan. Specifically, in 2006 the coalition Casa delle Libertà is composed of Forza Italia, Lega Nord, UDC, and Alleanza Nazionale.

## 65. Party(ies) in power – National level

*Since April 2006: center-left* (Government Prodi. Government political coalition: L'Unione (L'Ulivo , Democratici di Sinistra DS, La Margherita, Popolari UDEUR, Rifondazione Comunista PRC, Italia dei Valori, Federazione dei Verdi, Rosa nel Pugno

*June 2001-February 2006: center-right* (Government Berlusconi. Government political coalition: Forza Italia, Alleanza Nazionale, Lega Nord, Biancofiore (Ccd - Cdu), Indipendenti.

*May 1996 -March 2001: center-left* (Government Amato (April 2000 – June 2001)- Government political coalition: (DS, PPI, Democratici, UDEUR, SDI, PDCI, VERDI, Rinnovamento, Indip.). 2<sup>nd</sup> Government D'Alema (December 1999 –April 2000)- Government political coalition: DS, PPI, Democratici, UDEUR, PDCI, VERDI, Rinnovamento). 1<sup>st</sup> Government D'Alema (October 1998 – December 1999) Government political coalition: Ulivo, PDCI, UDEUR. Government Prodi (May 1996 – October 1998) Government political coalition: center-left (PDS, PPI, Lista Dini, UD, Verdi).

*April 1994 - February 1996:* Government Dini (17 January 1995 – 17 May 1996) Government political coalition: **Independent**

*May 1994 -December 1994:* **center-right** Government Berlusconi. Government political coalition: Forza Italia, Lega Nord, Alleanza Nazionale, CCD, UDC.

## 66. Party(ies) in power – Local level

*Since May 2006: center right.* Mayor: Letizia Moratti (party affiliation of Mayor: Forza Italia)

*2001 –May 2006: center right.* Mayor: Albertini Gabriele (party affiliation of Mayor: Forza Italia). Political coalition: CCD-CDU-FI-AN

*1997-2001: center right.* Mayor: Albertini Gabriele (party affiliation of Mayor: Forza Italia).Political coalition: (FI, CDU)

## 2. PARTICIPATION MECHANISMS

### 67. Referenda (Local level)

The statute of the Municipality includes the possibility of consultative referenda. Consultative referenda regard the strategies and choices of the Municipality as well as issues on which Municipalities can express a proposal. Referenda can also propose to revoke city

councils or local government deliberations if these are requested 120 days after the deliberations themselves.

**Score: 0**

**68. Who can initiate the referendum? (Local level)**

Proposed referenda need at least 1.5% of signatures of citizens who are enlisted on the electoral lists or at least a fourth of the area councils requesting it. In case of referenda requesting to revoke city councils or local government deliberations, these need to be requested by 3% of citizens who are enlisted on the electoral lists or by a third of the area councils.

**Score: 1**

**69. Number of (consultative or binding) referenda held over the past 10 years (Local level)**

Since 1995, 2 referenda have been done in Milan.

The first citizens' referendum (Referendum cittadino denominato di "consultazione successiva") was held on the 14th June 1998 on the firm managing the electric energy and the gas in Milan

The second citizens' referendum (Referendum cittadino "consultivo di indirizzo") was held on the 30th June 2001 on measures to limit traffic and to improve public transport.

**Score: -1**

**70. Existence and type of citizen assemblies**

Citizens can participate at public audiences which are organized when the administration intends to adopt decisions on territorial plans, or urban affairs which are relevant for citizens as well as on interventions on the economy, territory, health and environment (the audience needs to be requested by at least 1000 citizens). The information on public audiences need to be diffused by the major mass media. The public audience is headed by the Mayor and only representative of associations enlisted on the municipal register, representatives of at least 300 citizens (also aggregated in 'neighborhood associations 'Comitati di quartiere') can intervene in the debate.

There are also citizen consultation boards ('Consulta cittadina') in Milan concerning specific sectors and subjects. The boards meet once every 3 months. Citizen consultation boards are named by the mayor and are composed of members of different entities among which representatives of associations and trade unions. Their objective is to plan the interventions related to specific sectors. The only citizen consultation board which is operating in 2006 is the citizen consultation board on handicap which was set up in 1995.

**Score : 0**

**71. Powers of Citizen Assemblies**

See 70.

**Score : 0**

**72. Involvement of civil society organizations (associations, foundations, interest groups...) in the definition of local policies**

Social policies in Milan have been activated thanks to the constitution and permanent consultation of a board ('Tavolo permanente di coordinamento') in which both institutions and civil society actors are involved. The board usually meets three times per year before approving the distribution of the municipality budget (bilancio preventivo) and before its approval by the city council. The board elaborates and proposes opinions on the intervention on the social policies<sup>84</sup>.

Civil society organizations can also present proposals, petitions and can participate at the

<sup>84</sup> Piano di Zona degli interventi e dei servizi sociali 2006-2008, p 105-106

consultative bodies of the Municipality through the citizens consultation boards ('Consulta cittadina') that focus on specific sectors and subjects. The boards meet once every 3 months. Citizen consultation boards are named by the mayor and are composed of members of different entities among which representatives of associations and trade unions. Their objective is to plan the interventions related to specific sectors. The only citizen consultation board which is operating in 2006 is the citizen consultation board on handicap which was set up in 1995.

**Score: 1**

**73. Involvement of civil society organizations (associations, foundations, interest groups...) in the implementation of local policies**

The Municipality of Milan has a long standing tradition in the relationships held with the civil society organizations. In the Municipality of Milan different forms of organizations are active in different sectors: 2 ASP associations for different personal services, 33 registered associations; 98 foundations and private entities; 428 voluntary associations; 115 family associations; 184 social cooperatives, 15 time banks<sup>85</sup>. These entities are active in different sectors among which social assistance, handicap, minors, social solidarity, charity, education. The coordination and the monitoring of their quality is the Municipality responsibility<sup>86</sup>.

**Score: 0**

**74. Pluralism of the participation system in the city**

Pluralist system.

**Score: 1**

**75. Is there a specific department in the local council devoted to promote citizen participation?**

No.

**Score: -1**

**76. Is there a bill of rights or a similar local legislation that regulates how citizens can influence the decision-making processes in ways other than selecting their elected representatives?**

-Statute of the Municipality of Milan approved in 1991<sup>87</sup>

-Rules on the popular participation rights<sup>88</sup>

They include information on participatory mechanisms like consultative referenda, public audiences and citizen consultation boards as referred to in other indicators, namely 67, 70, 72.

**Score: 1**

**77. Number of local-council-owned buildings granted to associations as meeting spaces  
Raw number per 1,000 inhabitants**

No detailed information was found given that buildings are given out by different Municipality divisions. Among these, the state property division had rented around 150 building rooms at the end of 2006. This is however a partial number given that other sectors such as the Youth and free time divisions, the education division, the social services division all rent spaces to associations for specific use. Moreover, also decentralized area councils have their own spaces which can be temporarily used by associations

**Score: N.A.**

**78. Average percentage of local budget devoted to subside associations in general (1995-2005)**

<sup>85</sup> Piano di Zona degli interventi e dei servizi sociali 2006-2008, p. 92-98.

<sup>86</sup> Regolamento per gli interventi e servizi sociali del Comune di Milano approvato nel febbraio 2006.

<sup>87</sup> Statuto del comune di Milano adottato con deliberazione n° 653/91 e successive modificazioni;

<sup>88</sup> Regolamento per l'attuazione dei diritti di partecipazione popolare

Raw percentages
No information found.
<b>Score: N.A.</b>
<b>79. If there are sub-local public structures: do citizens have participation mechanisms within these structures?</b>
The area councils ('Consigli di Zona') promote the information and the participation of citizens in activities of the Municipality and debate on the problems of the local community. They can advance proposals to the Municipality of Milan (for example on building projects, on the possibility of renting Municipality areas and buildings, on traffic issues, on parks). They can promote local referenda and receive proposals by citizens. Citizens can participate in meetings but the local authorities are not obliged to consider their views.
<b>Score : 1</b>

#### **IV – SPECIFIC POS (related to immigration and ethnic relations)**

<b>80. Main responsibility for immigrants' integration policies</b>
Municipalities are responsible for the actual implementation on national and regional legislations. Although immigration norms are set at the national level, regions decide on issues like the access and the participation into education services, the organization of lodgement for foreigners as well as other interventions for assisting foreigners.
<b>Score: 0</b>
<b>81. Public information and support services for immigrants at the local level (which inform them about their rights, the institutions to which they can address, etc.)</b>
There are two Foreigners' Offices at the Municipality of Milan which offer several services among which: information concerning the rights and duties of all foreigners in Italy as well as procedures concerning several issues (visas, staying permit, renewals, family rejoining, health assistance, residence, citizenship, request for council apartments, etc.); social assistance; assistance for political asylum seekers and refugees; accommodation centres: the office takes care of the admission of non-EU citizens into first aid shelters belonging to the Milan City Council offering temporary accommodation; prompt accommodation for immigrant women in difficulty; orientation for jobs and training: The office also provides interpreters in different languages for translation of documents and during conversation with foreign citizens.
<b>Score: 1</b>
<b>82. Which institution(s) has(ve) the leading role in the field of immigrants' integration? – Local Level</b>
The social policies division of the Municipality of Milan has the responsibility for the implementation of policies regarding the immigration.
<b>83. Policies related to immigrants' integration at the local level</b>
At the moment no other information is available
<b>Scores: N.A.</b>
<b>84. Is there a specific department in the local council devoted to immigrants' integration policies?</b>
The Municipality of Milan does not have a specific service dealing with immigration but as stated in indicator 81, the service which deals with foreigners is the 'Health and social service'. This division deals with adults, old people, disabled, minor children and families as

well as foreigners.

**Score: 0**

### **85. Percentage of total local budget devoted to immigrants' integration policies**

Table: Municipality budget resources distribution of the social policies division (2006)

AREA	% of resources
Old people	47.4
Handicap	10.7
Minors and family	23.9
<b>immigration</b>	<b>1.5</b>
Emargination	7.8
Mental health	1.3
Lodgement	6.7
Central direction	0.7
Total (abs. value: 207.2 millions euros)	100

Source: Municipality of Milan. Social policies- Bilancio di previsione

In 2004, costs for interventions linked to immigration were 5,556,051.50 over a total amount of costs of 282,913,717.84 that is 1.96%.<sup>89</sup>

**Score:**

### **86. Existence of a council/board/assembly that represents immigrants/minority groups**

The 1998 law set up the opportunity for immigrants to be represented through the Additional Foreign Councillor ('Consigliere Aggiunto') in local councils and the immigrants' Municipal Consultative Body with consultation roles in the Municipality councils ('Consulta Comunale per i cittadini stranieri e apolidi').

The Additional Foreign Councillors are elected by non-EU resident foreigners who are at least 18 years old. They participate in the Local council meetings, may make proposals and raise claims with regard to local legislation, but do not have the right to vote or any power on decision making. Municipal Consultative Bodies are elected by foreign citizens, aged 18 or more, who have been officially resident in the city for at least one year. The Consultative Bodies are responsible for preparing proposals on migration policies, they are consulted on local programmes concerned with social integration, public housing, integration of immigrants in the labour market, measures promoting public security in the city, and initiatives aimed at preventing and reducing marginalisation and discrimination of immigrants<sup>90</sup>.

None of these are active in Milan.

**Score: -1**

### **87. Involvement of minority/immigrant organizations in the definition of local policies**

The 2006-2008 plan for the immigrant integration of the Municipality of Milan does not contain any reference to the involvement of any organizations composed of immigrants neither in the definition nor in the implementation of local policies<sup>91</sup>. However, the law does exist: since the 1998 law, the Immigration Territorial Councils at the Provincial level should be represented by the local administrations (the Regions, the Provinces and the Municipalities), the associations of and for immigrants, the organizations of employers and

<sup>89</sup> Piano di Zona degli interventi e dei servizi sociali 2006-2008, p.117.

<sup>90</sup> Source: Ankica Kosic and Anna Triandafyllidou. 2005. Active Civic Participation of Immigrants in Italy. Country Report prepared for the European research project POLITIS, Oldenburg 2005, [www.uni-oldenburg.de/politis-europe](http://www.uni-oldenburg.de/politis-europe)

<sup>91</sup> Piano di Zona degli interventi e dei servizi sociali 2006-2008

employees. The aim of the Councils should be the analysis of the needs and the promotion of activities to implement local programmes on immigration issues. But the Immigration Territorial Council is not active in Milan.

At the regional level, Lombardia set up in 1988 a Regional Council for Immigration Problems ('Consulta Regionale') which was meant to promote immigrant socio-economic and cultural integration. This council was meant to represent different actors in the field of immigration among which representatives of some immigrant associations as well. However, the regional Council for Immigration Problems is not active<sup>92</sup>.

At the national level, the 1986 law foresaw a national consultation board for the problems of extra-community workers and their families which was set up by the Ministry of Labor (moved to the Presidency of Ministries Council in 1998). This consultation board includes among others, representatives of the major trade unions as well as the participation of 6 representatives of extra-community workers. Its aims are to be in contact with national associations that are active for the assistance and integration of immigrants, to examine problems related to the conditions of foreigners (foreigners' economical, social and cultural integration, to verify the application of laws and inequalities at the territorial level, to elaborate propositions for a better co-habitation between local citizens and immigrants, to guarantee fundamental rights, to diffuse information.

**Score: -1**

**88. Involvement of minority/immigrant organizations in the implementation of local policies**

No specific information found (see 87)

**Score: -1**

**89. Involvement of organizations specialized in immigration/integration issues in the definition of local policies**

No specific information was found (see 87). However civil society organizations usually implement policies rather than participating in the process of decision making.

**Score: -1**

**90. Involvement of organizations specialized in immigration/integration in the implementation of local policies**

There are several organizations whose objective is specifically related to the improvement of immigrants' living conditions and offer health assistance, lodgement, legal assistance etc. However, no specific information was found on the relations of these organizations with institutions (in terms of funding, definition of objectives and distribution of responsibilities, etc.).

**Score: N.A.**

**91. Involvement of organizations playing a relevant role for immigrants' integration (such as Human rights organizations) in the definition of local policies**

See 87.

**Score: -1**

**92. Involvement of organizations playing a relevant role for immigrants' integration (such as Human rights organizations) in the implementation of local policies**

<sup>92</sup> The regional councils also include representatives of the most important institutions and voluntary organisations in the regions active in the sector of reception and integration of immigrants, representatives of trade unions, representatives of provincial and municipal administrations, representatives of the Chamber of Commerce and of employer associations, the director of the regional employment agency, a representative of the Ministry of Foreign Affairs. Source: Ankica Kosic and Anna Triandafyllidou. 2005. Active Civic Participation of Immigrants in Italy. Country Report prepared for the European research project POLITIS, Oldenburg 2005, [www.uni-oldenburg.de/politis-europe](http://www.uni-oldenburg.de/politis-europe)

A major role in the implementation of local policies is played by trade unions (for example in preparing legal documents that immigrants need) as well as other voluntary associations of the civil society, namely those related to the Catholic area like CARITAS<sup>93</sup>. However, no specific information was found on the relations of these organizations with institutions (in terms of funding, definition of objectives and distribution of responsibilities, etc.).

**Score: N.A.**

**93. Involvement of the local power in the funding of minority/immigrants organizations**

Regional funds are given to voluntary associations which are formally enlisted on the provincial and regional registers but usually immigrant associations are weakly structured and are not registered.

**Score: 0**

**94. Requirements to be able to apply for subsidies**

Entities applying for public funds need to have a legal status. Associations need thus to be formally structured and registered on the Municipality register. When applying, associations need to include documents on the statute of the association, show the balance of the activities etc<sup>94</sup>.

**Score: 1**

**95. Party arrangements to favour the presence of persons with ethnic minority background in the leadership of the party – Local level**

No information found.

**Score: N.A.**

**96. Party arrangements to favour the presence of persons with ethnic minority background in the party (rank-and-file members) – Local level**

No information found.

**Score: N.A.**

**97. Share of radical right and anti-immigrant parties in the electoral vote – National level: general elections**

The electoral systems have varied widely ever since 1993. Before 1993, elections were held following the pure proportional system. In 1993 the electoral system changed to a 75% majoritarian and a 25 % proportional. In December 2005, the Law 270/2005 brought back the proportional system with a majority premium which is obtained only under certain conditions.

**Italy: Camera dei deputati**

Party	2006	2001	1996	Mean 1996-2006
Lega Nord	4.6	3.9	10.1	6.2
Movimento Sociale Fiamma tricolore	0.6	0.4	0.9	0.6
Alternativa Sociale Alessandra Mussolini	0.7	-	-	0.7
Total	5.9	4.3	11	7.5

**Italy. Senate**

Party	9-10 April	2001	1996	Mean
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<sup>93</sup> Ch 4 ISMU 2006.

<sup>94</sup> See 'Regolamento per la concessione di contributi ed altre erogazioni economiche a favore di soggetti pubblici e privati ai sensi dell'art. 12 L 241/1990 esuccesive modifiche'

	2006			1996-2006	
Lega Nord	4.5	CDL <sup>95</sup>	10.4	7.4	
Movimento Sociale Fiamma tricolore	0.6	1.0	2.3	1.3	
Alternativa Sociale Alessandra Mussolini	0.6	-	-	0.6	
Total	5.7	1	12.7	<b>9.3</b>	

**Score: 0**

#### 98. Share of radical right and anti-immigrant parties in the electoral vote

**Local level: general elections**

##### Milano. Camera dei deputati

Party <sup>96</sup>	9 April 2006	13 May 2001	21 April 1996	Mean 2001-1996
Lega Nord	5.2	4.8	12.0	8.40
Alternativa Sociale Alessandra Mussolini	0.7	-	-	0.7
Movimento Sociale Fiamma tricolore	0.4	-	0.7	0.55
TOTAL	6.3	4.8	12.7	<b>9.65</b>

##### Milano. Senate

Party	9 April 2006	13 May 2001	21 April 1996	Mean 2006- 1996
Lega Nord	4.8	CDL	12.8	8.8
Alternativa sociale Alessandra Mussolini	0.6	-	-	0.6
Movimento Sociale Fiamma tricolore	0.4	1.14	2.3	1.3
Forza Nuova		0.28		0.28
TOTAL	5.8	1.42	15.1	<b>10.98</b>

**Score: 0**

#### 99. Share of radical right and anti-immigrant parties in the electoral vote

##### City Council Elections in Milan –

Party	28 May 2006	13 May 2001	27 April 1997	Mean 2006-1997
Lega Nord	3.8	4.35	15.5	7.9
Movimento Sociale Fiamma tricolore	0.3	0.52	0.7	0.5
Azione Sociale con Alessandra Mussolini	0.3	-	-	0.3
Forza Nuova	-	0.24	-	0.24
TOTAL	4.4	5.11	16.2	<b>8.94</b>

**Score: 0**

<sup>95</sup> Casa delle Libertà is the center-right coalition. Lega Nord and Alleanza Nazionale were part of the coalition 'Casa delle Libertà' in 2001. Alleanza Nazionale was part of it in 1996 as well (named Polo delle libertà)

<sup>96</sup> The most radical right wing parties are represented by the Movimento Sociale Fiamma tricolore formed in 1995, by Alternativa Sociale Alessandra Mussolini formed in 2004 and by Forza Nuova in 1997. Lega Nord is an autonomist party but has anti-immigrant positions.

## **GENERAL CONCLUDING COMMENTS**

In this report we have collected several indicators on different dimensions of the structure of opportunities offered to immigrants who enjoy different juridical statuses in Italy and particularly in Milan. The dimensions we have considered include individual rights, collective rights and aspects concerning the general and specific structure of opportunities for immigrants.

Generally, the 2002 law on immigration restricted the opportunities for foreigners to enter and get settled in Italy since access to Italy is now mostly submitted to the possibility of having a job.

At the individual level, whereas basic rights are granted regardless of the juridical status that foreigners enjoy, full individual citizenship rights are still distant from the conditions enjoyed by resident foreigners, even for those holding a long-term permit to stay, especially in relation to political rights.

Most cultural rights are instead not even defined within a legal frame. However, the actual privileged position of the Catholic Church allows Catholic foreigners to be in a privileged position with respect to communities professing other religions.

As to the general political opportunity structure, whereas civil society organizations seem quite integrated in the participation mechanisms, the specific political opportunity structures in relation to foreigners is usually more closed.

As to the specific position of Filipinos, Egyptians and Ecuadoreans in Milan, the opportunities seem quite the same as to the individual rights which rather change depending on the juridical position enjoyed by foreigners. Differently, the institutional opportunities seem to change with respect to collective rights and indicators seem to suggest that Catholic Filipinos or Ecuadoreans have wider opportunities than Muslim Egyptians.

## **COUNTRY AND CITY**<sup>97</sup>

Spain, City of Madrid

### **INTRODUCTION**

Immigration to the city of Madrid is a recent phenomenon, as it is the case for Spain in general. Despite of this novelty, Madrid has became one of the major immigration magnets in Spain during the last decade, especially for Latin-Americans due to its condition of capital city and high rates of economic growth in the last years. Immigration to Madrid has been largely economic/labour migration so far, although intense family reunion is likely to be taking place at the current moment<sup>98</sup>. However, official figures do not allow yet to asses these changes in a proper manner. In any case, there are two basic facts that should be bore in mind when interpreting the scores given to the city of Madrid in the following list of indicators:

- First of all, the novelty of immigration to the city and, consequently, the absence of well-defined policies and actions in many areas;
- Secondly, the predominance of Latin-American immigrants in the city (*versus* Moroccans as the largest non-Latino group) that implies also the presence of a large number of immigrants who are Spanish-speakers.

We would, thus, like to stress that some of the indicators that seem to reflect a “closeness” of the political opportunity structures, or policy positions that are in the opposite end to multicultural models, are frequently not so much due to an ‘active’ opposition to those models, but rather the consequence of immigration being a recent phenomenon and of many of these issues not being, as yet, really an issue for public concern or policy-making.

The most recent hot topics in the public debate about immigration both in the city and in the country have been: the regularisation programs (May 2005), the proposal around a possible future recognition of voting rights at the local level for foreigners (August 2006), concentration of immigrant pupils in public schools, etc. In particular, the public debate held around the issue of voting rights in local elections fuelled other debates such as the possibility of taking language exams to the immigrants before granting them not only voting rights but also access to some social services. These proposals came mostly from nationalist parties in Catalonia.

The last reform of the Immigration Law was passed in November of 2003. However, after this reform, which was not a large one compared to the previous one approved by the Conservative Party (“Partido Popular”) in 2001, the Socialist Party (now in office) approved the new “Reglamento de Extranjería”. This norm specified how to apply and enforce many aspects of the Immigration Law, established a new system of residence permits, shorter

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<sup>97</sup> This report was written by Amparo González and Laura Morales with the data collection assistance of Virginia Ros, all of them are researchers in the Spanish LOCALMULTIDEM team.

<sup>98</sup> About 30% of total residence permits granted to non-EU foreigners in Spain during the last three years have been granted on the basis of family reunion. However, this does not mean that family reunion was not taking place previously. In fact, many immigrants have joined their relatives in Spain “de facto”, by entering the country illegally in most cases. Unfortunately we cannot ascertain the size of this “de facto” family reunion.

periods for renewals and resolutions of the applications, and so on. In addition, the Socialist government carried out a large “regularization program” between February and May of 2005.

With regard to integration, the current government has recently approved the “Plan Estratégico de Ciudadanía e Integración” 2007-2010 (“Strategic Plan of Citizenship and Integration” 2007-2010). It is only a plan of action for next three years, although some important definitions about what the term “integration” means are included.

Three groups selected: Moroccans, Ecuadoreans, Andean Mixed Group (Bolivians, Colombians and Peruvians)

## **INSTITUTIONAL POS INDICATORS**

### **I – INDIVIDUAL RIGHTS**

#### **1. ACCESS TO THE COMMUNITY**

In Spain, short-term permits are:

- The initial permit, which is valid for one year and renewable
- The first renewal, which is valid for two years and renewable
- The second renewal, which is valid for two years and implies the right to apply for permanent residence after its expiration.

Therefore, most of what is said in this section applied mainly to the regime of “initial permits”, since the renewal is generally dependent only on the circumstance of having a job contract.

On the other hand, there are two major types of long-term permits:

- The permanent residence permit, which can be applied for after five consecutive years of legal residence in Spain and which is not subject to periodical renewals.
- The EU’s residence card (known as “tarjeta de comunitario”), which is granted to EU citizens and their relatives (partners, children below 21 and dependent parents, mainly) and which is valid for five years. It is worthwhile noting that relatives of Spanish citizens are also granted an EU’s residence card.

##### **a) Short-term permits**

<b>1. Automatic acquisition of the permit if mother or father of a national minor child</b>
No.
This possibility was considered in the Spanish Immigration Law before the reform passed at the end of 2000 (L. 4/2000). However, it has been suppressed by the reform in Law 8/2000. Now, the only possibility is to go to the courts and discuss the possibility of a minor being the sponsor of his/her parents’ reunion. In fact, many judges decide to grant a work permit and a short-term residence permit to undocumented parents in this situation and argue that parents of a Spanish national have the right to live legally in Spain. However, this “right” is not clearly recognized in the law.
<b>Scores:</b> <b>General score: -1</b> <b>Moroccans: -1</b> <b>Ecuadoreans: -1</b> <b>Andean Mixed Group: -1</b>
<b>2. Automatic acquisition of the permit if marriage with a national</b>
Yes.
This rule exists as a result of the particular manner in which Spain adapted its national legislation to the EU norms on rights to family reunion for relatives of EU citizens ( <b>RD 178/2003, paragraph 8</b> ). Non-EU partners of Spanish nationals would obtain (almost automatically) a residence card (known as “tarjeta de comunitario”). This card is valid for five years and, therefore, it is thus a long-term permit. The only requirement is not to be legally separated.
<b>Scores:</b>

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: 1**

**Andean Mixed Group: 1**

### **3. Economic resources requirement**

(Formally) Yes. However, the fulfilment of such a requirement is checked differently depending on whether the foreigner has a work permit or not; when the foreigner has a work permit, he is assumed to have also enough economic resources to support himself during his stay in the country. In fact, it is not possible to have a work permit without having a residence permit as well. Therefore, the norm is quite absurd in this respect.

Most immigrants are admitted to Spain as “tourists”; therefore, at the time of their first entry to the country they lack a work permit. When the police check their documentation at the border, they are asked to demonstrate they have enough money to support themselves during the whole time they will be “*in vacation*” in the country. This is the only real enforcement of the “economic resources” requirement.

As for students, they need to demonstrate that they have at least 600 euros for each month they intend to spend studying in Spain<sup>99</sup>.

Regarding family members of nationals or of foreigners settled in Spain, it is the sponsor living in Spain who has to demonstrate the economic resources. There is no a fixed amount in this case, the type of documentation commonly required consists of: a) the last three monthly payments or prove of income in case the foreigner is not working in Spain, b) taxes from the previous year, c) register in the Social Security System, and d) certificate from the City council about the nature and conditions of housing that the foreigner can guarantee to their joined relatives.

Except for students, the legislation does not fix any precise amount of resources.

**Scores:**

**General score: 0** (considering the main immigration to Spain, which is economic)

**Moroccans: 0**

**Ecuadoreans: 0**

**Andean Mixed Group: 0**

### **4. Link between work regime and permit regime**

Generally, yes.

An initial residence permit is granted only if a work permit is also granted. There are only two exceptions to the general rule:

- Family reunion: it is possible to receive a residence permit without having (or even applying for) a work permit, if the sponsor demonstrates he/she has enough economic resources and living space to support the newcomer. This type of residence permits are dependent on the sponsor's one rather than on a work permit. However, if the person who obtained a residence permit for the purpose of family reunion applies and obtains a work permit, his/her residence permit will become independent and the general rule of “link between work and residence permit” applies.

- Non-lucrative residence: the person will have to demonstrate he/she has enough economic resources to support himself/herself (and his/her family, if applicable).

On the other hand, one of the reforms introduced in the Immigration Law at the end of 2003 (Law 14/2003) consisted of the possibility of a “searching-job visa”. This type of visa can be applied either by children or grandchildren of people of Spanish origin, or by

<sup>99</sup> This whole amount of money need to be in a Spanish bank account. If it is in a foreign bank account, an additional document from the bank is needed, where the bank manager has to declare the student is the account holder and this document needs to be translated into English and Spanish and have “La Haya” stamp.

foreigners who intend to occupy jobs included in the list of jobs “difficult to cover” (“puestos de difícil cobertura”) (art. 39 LO 4/2000). In 2006 the number of “job-search visas” has been of 726 (for job vacancies in occupations classified as “difficult to cover”) plus 570 (for children and grandchildren of people of Spanish origin), so these figures provide an idea that this is clearly not the main entrance door to Spain for economic immigrants.

The requirements for renewal also include several aspects that reveal the link between work and residence permit regime. A first requirement for renewal is to have actually developed the job activities for which the previous work and residence permit was granted, at least for part of the time during the permit was in force. A second requirement relates to the necessity of having a work contract during the time the renewal would be valid for (two years in both cases of first and second renewals). Such a contract can be the old one, extended, or a new one.

Bearing in mind the tiny percentage that “job-search visas” represented over the total number of entries in 2006, the regulations in place must be considered restrictive.

**Scores:**

**General score: -1**

**Moroccans: -1**

**Ecuadoreans: -1**

**Andean Mixed Group: -1**

**5. Grounds for withdrawal**

- a. proven fraud in the acquisition of permit**
- b. sentence for serious crimes**
- c. actual and serious threat to public policy or national security**
- d. sufficient level of resources**

If the permit is only for residence, there are grounds for withdrawal:

- A proven fraud in the acquisition of the permit (art. 75.2.d) Immigration Regulations)
- A sentence for serious crimes
- A sanction of expulsion [which is applicable in case of lacking the proper permit to reside legally in Spain, working without the required permit to work legally in Spain, omitting relevant information about changes that affect the foreigner’s nationality, marital status or address, violating measures to protect the public security, participating in activities against the public order (atr. 53 Foreigners Law)]

If the permit is a joint permit of residence and work, grounds for withdrawal are:

- The two reasons mentioned for the case of residence permits and,
- If the foreigner stops having enough economic resources to guarantee a minimum living income, health care or adequate housing, and he/she will not be capable of having them in the period of three months (e.g. if the foreigner has not be registered in the Social Security System within a month after his/her entry in Spain)
- If the circumstances according to which the previous permit was granted disappear (however, concerning unemployment, there is some flexibility in the interpretation of this rule: it depends on how many months the foreigner has been unemployed and on whether he/she has a new employment offer or not: see indicator 26).
- If information seriously mistaken is discovered in the application
- If the foreigner stops having a valid passport and cannot prove he/she is carrying out all the necessary steps in order to get a new one
- If the foreigner has resided out of Spain for a period longer than six months in one year

**Scores:**

**General score: -1**

**Moroccans: -1**

**Ecuadoreans: -1**

**Andean Mixed Group: -1**

**b) Long-term permits**

**6. Automatic acquisition of the permit if mother or father of a national minor child**

No.

This possibility was considered in the Spanish Immigration Law before the reform passed at the end of 2000 (L. 4/2000). However, it has been suppressed by the reform in Law 8/2000. Now, the only possibility is to go to the courts and discuss the possibility of a minor being the sponsor of his/her parents' reunion. In fact, many judges decide to grant a work permit and a short-term residence permit to undocumented parents in this situation and argue that parents of a Spanish national has the right to live legally in Spain. However, this "right" is not clearly recognized in the law.

**Scores:**

**General score: -1**

**Moroccans: -1**

**Ecuadoreans: -1**

**Andean Mixed Group: -1**

**7. Acquisition of the permit if marriage with a national**

This indicator has to be linked with Indicator 2 because the permit obtained because of this reason has a validity of five years.

Besides, there is a possibility, also mentioned in Indicator 2, to obtain a permit in the case of marriage with a national from a "EEE" state even if this is not a long-term permit because it is linked to the partner residence; anyway it is also possible to obtain a long-term permit, after five years in this situation, as regulated in Spanish law.

**Scores:**

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: 1**

**Andean Mixed Group: 1**

**8. Required minimum time of habitual residence**

General rule: 5 years of continued and legal residence in Spain (art. 32.2 Foreigners Law)

Special rules to lower the number of years (art. 72 Immigration Regulations):

- a) residents who receive a contributive retirement pension
- b) residents who receive a pension because of sickness that totally prevents the foreigner from working
- c) residents who were born in Spain and who, at the age of 18, have legally resided in Spain for at least three consecutive years right before the application
- d) who were Spanish nationals "by origin" but have lost the Spanish nationality
- e) who have been cared by a Spanish public institution during the five previous years and reach the age of 18
- f) Nation-less and refugees
- g) Foreigners who have noticeably contributed to the economic, scientific or cultural advancement of Spain.

**Scores:**

**General score: 0**

**Moroccans: 0**

**Ecuadoreans: 0**

<b>Andean Mixed Group: 0</b>
<b>9. Economic resources requirement</b>
Nothing is explicitly established about economic requirements; in principle, the only requirement is to have lived in Spain for five years of residence (art. 72.1 Immigration Regulations)
<b>Scores:</b>
<b>General score: 1</b>
<b>Moroccans: 1</b>
<b>Ecuadoreans: 1</b>
<b>Andean Mixed Group: 1</b>
<b>10. Percentage of given permits over the total number of applications – National level</b>
There are no statistics available on the number of applications, but only on the number of successful resolutions. Therefore, we can only provide information on the percentage that permanent permits represent over the total of residence permits valid in a particular year. However, it is important to remark that discretionality in this type of resolutions is quite limited since the only legal requirement the immigration officials have to verify in order to grant/deny this type of permits is whether the applicant has in fact legally resided in Spain for at least five years, or not. Therefore, the percentage of positive resolutions is very likely to be close to 100%. In fact, there is some piece of evidence that supports this idea: the number of appeals against resolutions denying a permanent permit is negligible.
<b>Scores:</b>
<b>General score: 1</b>
<b>Moroccans: 1</b>
<b>Ecuadoreans: 1</b>
<b>Andean Mixed Group: 1</b>
<b>11. Grounds for withdrawal</b>
<ul style="list-style-type: none"> <li>a. proven fraud in the acquisition of permit</li> <li>b. sentence for serious crimes</li> <li>c. actual and serious threat to public policy or national security</li> <li>d. sufficient level of resources</li> </ul>
Extinction of the permit (art. 76 Immigration Regulations):
<ul style="list-style-type: none"> <li>a) proven fraud in the acquisition of the permit</li> <li>c) if the foreigner is included into any of the cases of “prohibition to entry”</li> <li>d) if the foreigner has lived more than 12 consecutive months out of the country or more than one year in the period of five years required to receive a permanent residence permit</li> <li>e) if the foreigner commit a crime which implies a sanction of “expulsion” [foreigners with a permanent residence permit can be punished with a sanction of expulsion only in case of: <ul style="list-style-type: none"> <li>- participating in activities against the State’s security,</li> <li>- participating in activities that may damage the external relations of Spain with other countries,</li> <li>- participating in activities against the public order</li> <li>- committing more than once in the same year a crime which is sanctioned with expulsion for foreigners with a short-term permit (see next indicator)]</li> </ul> </li> </ul>
<b>Scores:</b>
<b>General score: 0</b>
<b>Moroccans: 0</b>
<b>Ecuadoreans: 0</b>
<b>Andean Mixed Group: 0</b>

**12. Expulsion precluded**

- a. after 20 years of residence as a long-term residence permit holder
- b. in case of minors
- c. residents born in the host country or admitted before they were 10, once they have reached the age of 18

There is no preclusion but there are limitations (art. 57.5 Foreigners Law).

Limitations to the sanction of expulsion:

- for foreigners born in Spain
- for long-term residence permit holders
- naturalized individuals (but on very limited grounds)

In these cases, expulsion is precluded except if there is a serious threat to public policy or national security.

Nothing is said about minors who, in practice, are not expelled but sent back with their families at the country of origin, in case the family can be located. If it is not possible to find the minor's family, he/she is granted a residence permit.

**Scores:**

**General score: 0**

**Moroccans: 0**

**Ecuadoreans: 0**

**Andean Mixed Group: 0**

**c) Access to nationality****13. Eligibility for second and third generation**

Spanish Law on Acquisition of Nationality combines “ius sanguinis”, “ius solis” and “ius residenci”.

1) Children born to at least a Spanish parent (father or mother) will be Spanish nationals as well.

2) As a general rule, children born in Spain to foreigners are not Spanish nationals. However, there is a relevant exception to this general rule: if the country of their parents' nationality does not acknowledge these children as their own nationals. In these circumstances, Spanish law allows the possibility of applying for Spanish nationality from the very moment of the child's birth (“presunción de nacionalidad española”), in order to avoid situations of stateless people. Parents of children born to Ecuadorean couples in Spain have utilized this option very frequently. Although the Fundamental Law of Ecuador does recognize these children as nationals of Ecuador, it is necessary for their parents to register these children at the Consulate of Ecuador in Spain. What Ecuadorean parents have usually done is the following: after having a child in Spain, they visited their Consulate in Spain and asked for a document declaring that the child in question is not registered. With such a document, the Civil Register in Spain accepted as valid their application for the Spanish nationality for the child. This system is also used by other immigrants coming from Latina America.

3) In addition, children born in Spain to foreign parents are permitted to apply for the Spanish nationality after having resided in Spain for one year immediately before applying. They can apply at 18 years old or 14 if they are legally “emancipated”.

**Scores:**

**General score: 1**

**Moroccans: 0 (with some exceptions)**

**Ecuadoreans : 1**

<b>Andean Mixed Group : 1</b>
<b>14. Marriage with a national</b>
Yes, after one year from the date the marriage was celebrated, as long as the foreigner is not separated from his/her Spanish partner (legally or de-facto) [art. 22.2. Civil Code]
<b>Scores:</b>
<b>General score: 1</b>
<b>Moroccans: 1</b>
<b>Ecuadoreans: 1</b>
<b>Andean Mixed Group: 1</b>
<b>15. Required minimum time of habitual residence</b>
General Rule: 10 years of legal and continued residence in Spain
Exceptions/Shortened Periods:
1) <i>five years</i> for refugees
2) <i>two years</i> for nationals from Iberoamérica (which include all Spanish speaking Latin America), Andorra, the Philippines, Guinea, Portugal and “Sephardites”.
3) <i>one year</i> for those who:
- have born in Spain,
- are married to a Spanish national,
- have widowed of a Spanish national
- descendants born outside Spain to parents or grand-parents who were originally Spanish nationals.
<b>Scores:</b>
<b>General score: 1</b>
<b>Moroccans: -1</b>
<b>Ecuadoreans: 1</b>
<b>Andean Mixed Group: 1</b>
<b>16. Economic resources requirement for naturalization (first generation immigrants)</b>
No.
<b>Scores:</b>
<b>General score: 1</b>
<b>Moroccans: 1</b>
<b>Ecuadoreans: 1</b>
<b>Andean Mixed Group: 1</b>
<b>17. Percentage of approved naturalizations over the total number of applications – National level</b>
In Spain, there are no available data for successful and rejected applications, but only the number of successful ones. In fact, applications are never rejected as long as they fulfil the legal requirements explained above. Therefore, the rate of approved naturalizations is likely to be close to 100%.
<b>Score: 1</b>
<b>18. Grounds for withdrawing status</b>
<b>a. proven fraud in the acquisition of citizenship</b>
<b>b. actual and serious threat to public policy or national security</b>
The grounds for withdrawing the status are the following:
- if the foreign utilizes exclusively his/her previous nationality for a period of three consecutive years
- in case of enrolment in the army of a foreign country
- in case the foreign accepts a position in the government of a foreign country against the

<p>explicit order of the Spanish government  - proven fraud in the acquisition of citizenship.  Actual and serious threat to public policy/national security is not a ground for withdrawal.</p> <p><b>Scores:</b>  <b>General score: -1</b>  <b>Moroccans: -1</b>  <b>Ecuadoreans: -1</b>  <b>Andean Mixed Group: -1</b></p>
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## 2. FAMILY REUNION

<p><b>19. Eligibility for legal residents</b></p> <p>General rules:  - To have legally resided in Spain for one year and have a residence permit for at least one more year</p> <p><b>Scores:</b>  <b>General score: 1</b>  <b>Moroccans: 1</b>  <b>Ecuadoreans: 1</b>  <b>Andean Mixed Group: 1</b></p>
<p><b>20. Economic Resources requirement</b></p> <p>Enough income, adequate housing and health care coverage for the sponsored relatives are required as necessary in applications for a permit for the purpose of family reunion (art. 42 Immigration Regulations).</p>
<p><b>Scores:</b>  <b>General score: -1</b>  <b>Moroccans: -1</b>  <b>Ecuadoreans: -1</b>  <b>Andean Mixed Group: -1</b></p>
<p><b>21. Duration of validity of permit</b></p> <p>- If the sponsor has a short-term permit, the relatives' permits will be dependent on the sponsor's one until its expiration date  - If the sponsor has a permanent permit, the initial permit for the relative(s) will be a short-time permit valid until the expiration date of the sponsor's foreigner-ID; after the expiration of the initial permit, the next one will become also a permanent permit</p>
<p><b>Scores:</b>  <b>General score: 0</b>  <b>Moroccans: 0</b>  <b>Ecuadoreans: 0</b>  <b>Andean Mixed Group: 0</b></p>
<p><b>22. Grounds for withdrawing the status:</b></p> <ol style="list-style-type: none"> <li>Public policy or security major threat</li> <li>Proven fraud in the acquisition of permit (inexistent relationship or misleading information).</li> <li><b>Break-up of family relationship (before three years)</b></li> </ol> <p>These grounds are:</p> <p>- insufficient economic resources or inadequate housing (police must elaborate a report about housing size and conditions)</p>

- separation or divorce (in the case of reunified partners) before having spent two years in Spain living together with the partner who sponsored the reunion
- threat to public policy
- fraud in the permit acquisition.

**Scores:**

**General score: -1**

**Moroccans: -1**

**Ecuadoreans: -1**

**Andean Mixed Group: -1**

### **23. Right to autonomous residence permit for partners and children reaching age of majority.**

1) wife or husband:

- after 5 years of residence in Spain
- when a work permit is granted to them
- in case of separation or divorce, as long as he/she has lived with the sponsor in Spain for at least two years
- in case of domestic violence, since the very moment a judge imposes measures for the victim's protection (art. 19 Foreigners Law)
- in case the sponsor dies

2) children: when they reach age 18 and obtain a work permit

**Scores for partners:**

**General score: 0**

**Moroccans: 0**

**Ecuadoreans: 0**

**Andean Mixed Group: 0**

**Scores for children:**

**General score: -1**

**Moroccans: -1**

**Ecuadoreans: -1**

**Andean Mixed Group: -1**

### **24. Percentage of entrances in territory through family reunion over the total number of applications – National level**

Information not available.

In Spain, we only have information about the number of residence permits that are granted each year on the basis of family reunion. However, we can only calculate the percentage that permits granted on the basis of family reunion represent over the total of valid residence permits in a particular year. This percentage is far from what we are trying to capture through this indicator since the number of valid permits in a particular year are a mixture of applications filed during the last and current years, renewed permits and so on. Unfortunately, in Spain we lack reliable information on annual entries in general.

**Score: N.A.**

### 3. SOCIAL AND ECONOMIC RIGHTS

#### a) Labour market access

##### - *Short-term permits*

###### **25. Access to employment**

The main limitation consists of the “**national preference**” principle (art. 38 Foreigners Law), according to which a foreigner can be denied an initial work permit if there are Spanish (or EU citizens) workers looking for a job similar to the one the foreigner intends to do. In practice, there is a catalogue of occupations defined as “difficult to fill”, for which the national preference principle is not applied. On the other hand, there is also the possibility to be hired for a job which is not included in such list if the employer tries to fill a job vacancy by applying for a worker to the Employment Public Services and does not get it (art. 50 Immigration Regulations). On the other hand, there are also some cases in which the principle of national preference is not applicable such as (art. 40 Foreigners Law):

- Positions designated on the basis of “trust relationship”
- Spouse or child of a foreign resident who has a non-initial residence permit
- Child of a naturalized person, if the mother/father has been residing for at least one year in Spain and the legal regime applicable to EU citizens and their relative is not applicable to the child;
- Child of a EU citizen, if the mother/father has been residing for at least one year in Spain and the legal regime applicable to EU citizens and their relative is not applicable to the child
- Foreigners who apply for the work permit’s renewal
- Refugees, during the year after losing the status of “refugee”
- Stateless persons, during the year after losing the status of stateless person
- Foreigners who are responsible for Spanish descendants or ascendants
- Foreign residents who were born in Spain
- Children and grandchildren of Spanish origin
- Minors who are of working age and are under the responsibility of public institutions and cannot be reunified with their family at the country of origin
- Foreigners who were seasonal workers for 4 years and have always returned to their country of origin as established in their contracts.

There are also some limitations for becoming a permanent civil servant. However, foreign residents (with a residence permit) can be hired within the civil service.

It is, of course, required to have the proper educational credentials to develop any professional activity in Spain (credentials have to be homologated by the Spanish Ministry of Education).

There are some special situations or occupations for which a work permit is not required such as musicians, artists, visiting professors, scholars and researchers, diplomats, foreign journalists, permanent residents, etc (art. 42, Foreigners Law). On the other hand, special regimes are applicable to trans-border workers, seasonal workers, etc.

Finally, the law mentions the possibility of applying special regimes to foreigners from specific nationalities in attention to the reciprocity principle, although there is no treaty with any country in this line as far as we know.

**Scores:**

**General score: -1**

**Moroccans: -1**

**Ecuadoreans: -1**

**Andean Mixed Group: -1**

**26. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit to stay**

In some situations and only in the case of initial permits.

The work and residence permit will be renewed if the foreigner proves the continuation in the job for which the initial permit was granted. In those cases where a new work contract is presented –which indicates that the previous one was terminated-, the foreigner will have to prove that:

- A. (1) he/she worked for the job the previous permit was granted for a period of, at least, six months and, (2) he/she is already legally working in a new job for which he/she is permitted to work, or he/she has a new job offer; or
- B. (1) he/she worked at least three months a year in the activity for which the previous permit was granted and, (2) he/she has a new and valid work contract and, (3) the previous work contract was terminated against his/her will.

**Scores:**

**General score: -1**

**Moroccans: -1**

**Ecuadoreans: -1**

**Andean Mixed Group: -1**

- *Long-term residence (duration of validity:  $\geq 5$  years)*

**27. Access to employment**

A work permit is not required for those foreigners who have a permanent residence permit. However, their access to the civil service and public employment in general is forbidden for most positions, even if they do not imply the exercise of public authority. Their access to private-sector jobs is the same as nationals.

**Scores:**

**General score: 0**

**Moroccans: 0**

**Ecuadoreans: 0**

**Andean Mixed Group: 0**

**28. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit to stay**

No.

**Scores:**

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: 1**

**Andean Mixed Group: 1**

**b) Welfare state access**

- *Illegal immigrants*

**29. Access to social security, social assistance and healthcare for illegal immigrants**

**Health Care (art. 12 Foreigners Law):**

Illegal immigrants have access to health care. However, the law distinguishes two situations depending on whether the immigrant is registered or not in the Municipal Population Register (known as “Padrón Municipal”):

- if the immigrant is registered, he/she has access to health care in equal conditions as nationals
- if he/she is not registered, he/she has only access to emergency assistance

The requirement of “registration in the Municipal Population Register” is not applicable to minors and pregnant women, who are entitled to pregnancy and maternity care in all cases.

**Social Assistance (art. 14.3 Foreigners Law):**

All foreigners, regardless of their legal situation in Spain, are entitled to basic social services and social assistance.

**Regional Level (MADRID), Social Services Law, paragraph 10.2:** “Foreigners, refugees and stateless persons who are in the territory of the Region of Madrid could have access to these services according to the national legislation, international treaties and, in absence of this, according to the principle of reciprocity”.

**Scores:**

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: 1**

**Andean Mixed Group: 1**

- *Short-term permits*

**30. Access to social security, social assistance and health care for non-nationals**

There is no further distinction apart from the aforementioned one between registered and non-registered illegal immigrants.

**Scores:**

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: 1**

**Andean Mixed Group: 1**

- *Long-term residence permits*

**31. Access to social security, social assistance and healthcare for non-nationals**

There is no further distinction apart from the aforementioned one between registered and non-registered illegal immigrants.

**Scores:**

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: 1**

**Andean Mixed Group: 1**

## 4. ANTI-DISCRIMINATION RIGHTS

### 32. Legislation against ethnic discriminations: types of actions

In Spanish Immigration Law, there exists a general definition of what is considered a “discriminatory act” (art. 23 Foreigners Law):

- acts that directly or indirectly imply a distinction, exclusion, restriction or preference against a foreign and which is based on race, colour, national or ethnic origin or religious beliefs, and
- that is intended to destroy or limit the acknowledgement or practice of human rights and fundamental freedoms (political, social, economic or cultural ones)
- The law defines some specific cases of “discriminatory acts”:
- Related to *labour market*: in hiring or with regard to labour conditions in general
- Related to *ethnic discrimination in other fields*:
  - a. Acts by civil servants who, in providing a public service, imply discrimination against foreigners because of their condition of foreigner or because of their race, religion, ethnicity or nationality.
  - b. Acts that impose more burdensome or costly conditions to foreigners comparing to Spanish nationals in providing them public goods or services because of their condition of foreigner or because of their race, religion, ethnicity or nationality
  - c. Acts that impose more burdensome or costly conditions to foreigners comparing to Spanish nationals in their access to employment, housing, education, vocational training and social service because of their condition of foreigner or because of their race, religion, ethnicity or nationality
  - d. Acts that prevent the possibility of carrying out an economic activity legally initiated by a foreigner who resides legally in Spain because of their condition of foreigner or because of their race, religion, ethnicity or nationality.
  - e. Acts that imply **an indirect discrimination** because of utilizing criteria that may damage foreign workers precisely because of their condition of foreigners or because of their race, religion, ethnicity or nationality

Thus, the legislation does only specifically address ‘actions’, and not ‘verbal’ discrimination.

**Score: 0**

### 33. Types of sanctions in case of racially discriminatory hiring

Depending of the action, sanctions may vary from monetary fines to sanctions of imprisonment from six months to two years (art. 314 Criminal Law)

In addition, if the action is defined as a crime by the Spanish Criminal Law, to have committed such a crime because of racist, anti-Semitic or any other type of discriminatory motives is considered as an aggravating factor (art. 22 Criminal Law).

**Score: 0**

### 34. Public structures dealing with ethnic discriminations

Structures of this type are, in general, very few and little developed in Spain. However, in the city of Madrid, the recently approved “Plan de Convivencia” (“Plan for life together/coexistence”) includes the creation of the Anti-discrimination Unit. This Unit started its activities past February 2006, since then, it has processed about twenty cases. The procedure works as follows: immigrants may present their complaints at the municipal social services offices; the group of “legal assistance” elaborates a report and sends it to a mixed commission (lawyers and civil servants) that decides whether to bring the complaint to the courts or to carry out a mediation work.

Theoretically, this unit may influence, at least indirectly, the design and implementation of immigration policies through its reports. However, there is no permanent channel of collaboration in this regard due to the novelty of its creation.

As this structure is very recent, there is no liable information yet about its actual working.

**Score: 0** (considering that we still do not know if the agency is properly working as expected)

## 5. POLITICAL RIGHTS

### **35. Right to vote in local elections**

- EU citizens: right to vote and to be elected in local elections, and in elections to the European Parliament (art. 13 Constitution)
- Nationals from Norway: same rights as EU citizens (art.13 CE related with “Canje de Notas” from 6<sup>th</sup> February of 1990).

As far as we know, there is no requirement about a minimum length of previous residence in Spain in order to be entitled to the aforementioned political rights (Real Decreto 202/1995 de 10 de febrero, por el que se dispone la formación del censo electoral de extranjeros residentes en España para las elecciones municipales, BOE núm. 38, de 14 de febrero). The only requirement is that the EU citizen has to express his/her wish of being included in the Electoral Census (they can do this in the offices of the municipality).

The aforementioned norm establishes also the age requirement (18 years old), and the requirement of having a residence permit (but this is more formal than real since all EU citizens that apply for it are granted an EU residence card).

There exist also bilateral treaties with **Venezuela, Uruguay, Colombia, Argentina and Chile** that include a mention of the possibility to vote in local elections in Spain for nationals of these countries. However, these treaties are not immediately applicable but depend on the development of additional legislation that has been never passed. In addition, these treaties only mention the right to vote but not the right to be elected.

The issue of the foreigners' right to vote in local elections received great media and public attention in August 2006, after the Vice-President of the National Government made some statements on the topic. However, after several months of intense discussion, it seems that the issue has been left aside for a while again due, among other things, to the multiple difficulties that the wording of the constitution with respect to the “principle of reciprocity” imply.

**Scores:**

**General score: -1**

**Moroccans: -1**

**Ecuadoreans: -1**

**Andean Mixed Group: -1**

### **36. Right to stand for local elections**

Same as Indicator 38.

**Scores:**

**General score: -1**

**Moroccans: -1**

**Ecuadoreans: -1**

**Andean Mixed Group: -1**

## **II- CULTURAL/GROUPS RIGHTS**

### **1. CULTURAL REQUIREMENTS TO ACCESS THE COMMUNITY**

#### **37. Cultural requirements for obtaining short-term permits**

No.

This issue has just recently emerged in the public debate. In fact, in the context of the 2006 summer discussion about the possibility of granting immigrants with voting rights at the local level, some nationalist parties in Catalonia proposed the possibility of establishing exams of “Catalan language” before granting such voting rights at the local level. However, the discussion is over now since no action is being carried out at the national level in order to recognize voting rights to immigrants for the moment.

On the other hand, it is necessary to bear in mind that a large proportion of immigrants in Spain come from Spanish-speaking countries and are either of a Catholic or Christian background (more than 40% are from Latin America), thus culturally closer. Our score of “1” must, therefore, be interpreted within this particular context of little perceived need for cultural requirements. This is also the reason why public debates around cultural issues have arised almost exclusively in regions affected by the nationalist and linguistic cleavage (Catalonia, especially).

**Scores:**

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: 1**

**Andean Mixed Group: 1**

#### **38. Cultural requirements for obtaining long-term residence permits (>5years)**

No

**Scores:**

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: 1**

**Andean Mixed Group: 1**

#### **39. Cultural requirements for naturalization (first generation immigrants)**

Cultural requirements are not explicitly established as such.

**Scores:**

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: 1**

**Andean Mixed Group: 1**

## **2. LANGUAGE PROGRAMS**

#### **40. Host-country language programs for immigrant adults**

Language programs for immigrant adults in Spain are provided by both NGOs and public centres of education for adult people.

Adults’ Schools have teachers paid by the Regional Governments and include a specific course on “Spanish for foreigners”. This course can be taken in person or on-line. The registration fee for the on-line course in Madrid is 23 Euros/month, if personally attended, it is free.

The rest of courses in Adults' Schools are not explicitly designed for immigrants but for the whole adult population.

In addition, NGOs are also frequent providers of language programs for the immigrant population in Spain. Moreover, many of these courses are publicly subsidized by the national and regional governments.

**Scores:**

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: irrelevant**

**Andean Mixed Group: irrelevant**

**41. Host-country language Programs for immigrant children**

The Spanish Law of Quality in Education (Law 10/2002, 23 December) establishes that "Education authorities will promote specific programs on Spanish language and other co-official languages, and programs on basic elements of culture in order to promote the integration of the immigrant population". Generally, these activities are included in what the Spanish legislation calls "Compensatory Education".

The norm that regulates activities of "Compensatory Education" establishes that: "it would be possible to organize courses for educational support in small groups out of the "big class" for a maximum time of eight hours a week. In any case, these courses cannot overlap with other complementary activities that may favour the integration of immigrant pupils with needs of "compensatory education", neither with "gymnastics, arts, religion or activities alternative to religion, plastic and visual activities, music and technology". The maximum number of students in these groups is eight, and their attendance will be periodically revised depending on their learning progress [...] (Orden de 22 de julio de 1999).

In Spain, competencies on education in general are decentralized. Therefore, the Autonomous Community is the governmental level at which language programs for immigrant children are designed and implemented. In the case of Madrid, there exists a specific program in this area, which is titled "Support Service for Immigrant Pupils" (S.A.I. in Spanish). It is important to highlight that this Program is not automatically implemented in all schools with immigrant students, but only in those that are subsidized with public funds, as long as the school applies for it and there are funds still available.

**Scores:**

**General score: 1**

**Moroccans: 1**

**Ecuadoreans: irrelevant**

**Andean Mixed Group: irrelevant**

### 3. SCHOOLING

**42. Possibility of public funding for Muslim private-owned schools (full time school)**

According to the Spanish legislation, it is possible to create a private school and to receive public funding for it, regardless of its religious orientation. However, it will be necessary to prove that there is a social benefit derived from its creation and the principle of "free education" is respected, as well as the constitutional values.

**Scores:**

**Moroccans: 1**

**Ecuadoreans: irrelevant**

**Andean Mixed Group: irrelevant**

<b>43. (if there is a possibility) Number of public funded Muslim schools (full-time schools)</b>
There is no Muslim school in Spain
<b>Scores:</b>
<b>Moroccans: -1</b>
<b>Ecuadoreans: irrelevant</b>
<b>Andean Mixed Group: irrelevant</b>
<b>44. Possibility of public funded for other minority group private-owned schools (full time schools)</b>
Same as for item 42.
<b>Scores:</b>
<b>General score: 1</b>
<b>Moroccans: 1</b>
<b>Ecuadoreans: 1</b>
<b>Andean Mixed Group: 1</b>
<b>45. (if there is a possibility) Number of public funded minority group schools (full-time schools)</b>
1. Jewish School (Centro Ibn Gabirol-Estrella Toledano) (Madrid Region, not in the city). 2. Two Evangelical schools with public funding (School “El Porvenir” and School “Juan de Valdés”).
We have opted for a general score of 0 given that in the city as a whole they exist but are a rare event. In terms of the scores for the specific 3 groups, we have turned the attention to the existence of minority-group schools that would cater to their nationality or religious orientation. Given that there are no Moroccan or Muslim schools available, the situation is ‘worse’ for this group, than for the 2 Latin American groups, as there are 2 Evangelical schools in Madrid, and a number of Andean citizens are Evangelicals.
<b>Scores:</b>
<b>General score: 0</b>
<b>Moroccans: -1</b>
<b>Ecuadoreans: 0</b>
<b>Andean Mixed Group: 0</b>
<b>46. Cultural/language courses for pupils of minority groups inside public schools</b>
No.
However, the buildings of public funded schools are sometimes utilized by parents' associations and other type of organizations to teach pupils of immigrant origin the language and culture of their countries of origin. For instance, the Chinese community in Madrid teaches on Saturdays in some schools.
<b>Scores:</b>
<b>General score: 0</b>
<b>Moroccans: 0</b>
<b>Ecuadoreans: 0</b>
<b>Andean Mixed Group: 0</b>
<b>47. Changes in public schools' curriculum to take into account the cultural diversity of society</b>
The Ministry of Education has recently designed a new subject in the school curriculum, known as “ <i>Educación para la Ciudadanía</i> ” (“Education for Citizenship”) but it is not well defined yet. It is thought that it will consist of teaching basic principles of democracy and how it works; in this sense, it would be also a possible road to integrate the cultural diversity in schools' curriculum. However, the objectives of this new subject in schools are still under debate so it is impossible to say whether it will finally take into

account cultural diversity or not.

According to information recently published in the newspaper “El País” (October 2006), the new subject will be organized around three main axes:

“Individuals, social and interpersonal relations; this axe intends to transmit a model of social relations based on the recognition of the human dignity for every person, and on the respect of the “other” even if he/she has different opinions and beliefs to our own”.

Life in community, which deals with life together and coexistence, civil values in democratic societies (respect, tolerance, solidarity, justice, mutual support, cooperation and peace culture), with the way in which coexistence and conflict must be dealt with within the family, at school or within the peer-group.

Living in society, which proposes the necessity and knowledge of the principles and norms contained in the Constitution.”

**Score: -1** (because the new subject has not been approved yet and also cultural diversity is not one of its significant points)

#### 4. RELIGION

##### **48. Religious education in public schools**

The teaching of religion in public schools or schools with public funding is regulated by specific cooperation agreements. The possibility of receiving courses of Catholic religion exists in all these schools, and a religious subject (discussing historical and doctrinal aspects) is in fact an optional course in the national curriculum. On the contrary, the possibility of receiving courses on Islamic religion is available if some requirements are fulfilled. First of all, at least 10 students of the school have to apply for it. In this case, the Spanish Ministry of Education should pay for a teacher of Islamic Religion. There are already some cases where this agreement has been implemented in Andalusia and other regions. However, as far as we have been able to gather from public authorities, there is none in the city of Madrid as yet, probably because there are not enough Muslim pupils and families asking for it in each school.

In 2005, there were 38 teachers of Islamic religion in Spain, 120 teachers of Evangelical religion and 10,847 teachers of Catholic religion. On the other hand, in 2004, according to figures provided by the Ministry of Education, there were 3,338,302 students who chose Catholic religion, 8,011 chose Evangelical, 7,700 chose Islamic religion, and 1,053 Jewish. In addition, as religion is not a compulsory subject at school, other 1,329,933 students chose alternative (non-religious) subjects.

Therefore, the law admits this possibility but there is currently no school in Madrid with Islam teachers. This is the reason why we have scored a 0 in this indicator, because Muslim pupils in Madrid do not have currently the ‘real’ option to get classes on Islam (although in many schools they are entitled to it), but they are fully exempt from following the subject on Catholic religion (which is offered in every school).

**Scores**

**Moroccans: 0**

**Ecuadoreans: irrelevant**

**Andean Mixed Group: irrelevant**

##### **49. Islamic religious signs in the public sector**

No regulation and no conflicts or public debate around it so far for the case of Madrid.

**Scores:**

**Moroccans: 1**

**Ecuadoreans: irrelevant**

**Andean Mixed Group: irrelevant****50. Islamic religious signs in the private sector**

No regulation and there is no evidence of it not being “well tolerated in practice”, as we have not come up with any news so far of any conflict around this in the media. In addition, this is not usually part of the traditional public demands by the Islamic community in Spain. However, it is important to note that in Spain immigration from Muslim countries is predominantly male and that women are much less inserted in the labour market. This is surely an additional reason why this has not as yet become an issue in Spain.

**Scores:****Moroccans: 1****Ecuadoreans: irrelevant****Andean Mixed Group: irrelevant****51. Islamic breaks for praying**

No developed regulation. The “Cooperation Agreement between the Spanish State and the Spanish Islamic Commission” signed in 1992 includes in its article 12.1 the possibility to request the intermission of the working time for the compulsory collective prayer Fridays, as well as the advanced finalisation of the working day one hour prior to the sun set during Ramadan. However, beyond a specific regulation for the Armed Forces, there is no legal development of this article of the agreement and, so far, this ‘right’ has to be negotiated between the employer and the employee.

A study done by Jiménez-Aybar and Barrios-Baudor in 2006 analysed a selection of the “Labor agreements” (Convenios Colectivos) in Spain between employer organisations and trade unions and found that none of them included any precept on the right of Muslim workers to intermissions for daily prayers. A few of them included precepts regulating working time during Ramadan.

Even if we do not have ‘hard’ evidence on its practical toleration, the study by Jiménez-Aybar and Barrios-Baudor (with a survey to 226 Muslim workers) notes that this practice is rarely requested by the workers, and when requested not granted. In addition, the effective regulation of breaks for praying as a right has been a traditional public demand by the Islamic community in Spain. Thus, these considerations justify, in our opinion, a score of 0.

**Scores:****Moroccans: 1****Ecuadoreans: irrelevant****Andean Mixed Group: irrelevant****52. Cemeteries and burial according to Islamic rite**

This is a matter depending on the municipal authorities, so it may vary from one city to another. However, most municipalities with a large number of Muslims have some kind of arrangements for these matters.

In the region of Madrid, there is a Muslim cemetery in *Griñón*, a village out of the city. This cemetery is owned by the Kingdom of Morocco and it is managed by the Consulate. All aspects of the Islamic rite are respected in this cemetery (including burial with no coffin). A recent agreement will also make available a section of the main cemetery of Madrid (La Almudena) for Islamic burials, although it is uncertain as yet whether burials with no coffin will be allowed there.

**Scores:****Moroccans: 1****Ecuadoreans: irrelevant**

**Andean Mixed Group: irrelevant****53. Local public budget for mosques (building and managing)**

As far as we know mosques are not directly built or managed with any public money in Spain in terms of direct subsidies for this specific purpose. But Catholic churches or parishes are neither. This implies that Islam is treated in this respect the same as the majoritarian religion.

A different matter is the receipt of general public funds for religious communities in Spain, which so far have clearly favoured the Catholic Church.

**Scores:****Moroccans: -1****Ecuadoreans: irrelevant****Andean Mixed Group: irrelevant**

## 5. MEDIA

**54. Islamic religious programs in public and state-subsidized private broadcasting (not cable and satellite)**

Sunday mornings are the time dedicated in Spanish national public TV (TVE2) to religious programs:

- 1) 8.45-9.00h: "Buenas Noticias", Evangelical.
- 2) 9.00-9.15h: "Shalom", Jewish
- 3) 9.15-9.30h: "Islam hoy", Muslim
- 4) 9.30-10.30: "Pueblo de Dios", Catholic.

**Scores: 0****55. Programs in public and state-subsidized private broadcasting (not including cable and satellite) for other minority groups or for the whole immigrant population****1) At the national level:**

- TVE2, "Con todos los acentos" (Sundays, 9.30, 30 mins.), for all immigrants.

**2) At the regional level:**

- TELE MADRID, "Telenoticias sin Fronteras" (Sundays, at 8.00am, 30 mins.), for all immigrants.
- TELE MADRID, "Latino" (Saturdays, at 24.00h, 100 mins.), focused on Latin-Americans.
- TELE MADRID, "Un lugar extraño" (Thursdays, at 21:40h, 30 mins.), for all immigrants.

*Note: this information was accurate at the time of collection, however, media programming is constantly changing and timing and duration may have varied since.*

**Scores:****General score: 1****Moroccans: 0****Ecuadoreans: 1****Andean Mixed Group: 1**

## 6. LABOUR MARKET: GROUP RIGHTS

**56. Affirmative actions for ethnic minorities in the private sector****None****Scores:**

<b>General score: -1</b>
<b>Moroccans: -1</b>
<b>Ecuadoreans: -1</b>
<b>Andean Mixed Group: -1</b>
<b>57. Affirmative actions for ethnic minorities in the public sector</b>
None
<b>Scores:</b>
<b>General score: -1</b>
<b>Moroccans: -1</b>
<b>Ecuadoreans: -1</b>
<b>Andean Mixed Group: -1</b>
<b>58. Measures to further the integration of foreigners into the labour market</b>
At the local level, there is nothing specific, apart from subsidizing some NGOs that elaborate projects aimed at promoting the immigrants' labour market integration. The municipal "Plan for Social and Multicultural Coexistence" includes an action called "Polígono de empresas de inserción laboral" ("Firms Park for Labour Integration"), which should have started in the last trimester of 2006. This action is specifically directed to immigrants (according to the city document), but is still not in motion. In addition, the regional government of Madrid, in its Plan for Integration of Immigrants 2006-2008 has announced 77 million Euros aimed at providing foreign workers with training courses, and 2.3 million Euros to promote the creation of firms by immigrants. However, this part of the Regional Plan is not implemented yet.
<b>Score: 0</b>

### **III – GENERAL POS**

#### **1. CONFIGURATION OF POWERS**

<b>59. Degree of federalism and decentralization</b>
Is Spain is a relatively decentralised country, frequently referred to as quasi-federal. The Spanish State is politically decentralized into Autonomous Communities (regions) which have substantial budgeting and legal powers, vested into regional assemblies by direct suffrage and regional governments elected in these regional houses. The gradual process of political decentralisation experienced in Spain since the approval of the 1978 Constitution has entailed a gradually expanding attribution of competencies to the regions, which are now responsible for such relevant matters as education, health care, and urban planning, and include policies for the integration of immigrants. In addition, some regions (especially Catalonia and the Basque Country) have achieved more attributions (e.g. police forces or special fiscal agreements or status). During 2006 and 2007 a series of reforms of the regional 'constitutions' is taking place, by which most regions are gaining additional powers in more domains and, especially, are increasingly able to set their own taxes and fiscal policies. At the sub-regional level, provinces and municipalities have separate attributions (other entities –such as the island or the metropolitan area- also exist), but these are fundamentally administrative. Although municipalities are all political organs, as they all have assemblies (or councils) of representatives directly elected by the citizenry, their fiscal autonomous capacity is fairly limited and are financially dependent from the regions and the national budgets. However, within the limits of their fiscal capacity, they

are fairly free to set their own policy priorities.

**Degree of federalism according to Lijphart (1971-1996): 3.00**

**Score: 3.00**

#### **60. Decentralization at the local level: sub-local public structures (at the level of district, neighbourhood) with political powers**

The city of Madrid is divided in 21 districts, each of which has a “Junta de Distrito” (District Council), but not an executive power. The “Juntas de Distrito” are bodies for the decentralized administration of the municipal services but they lack any substantive political power, and are fundamentally administrative units.

In 2007, the “Juntas de Distrito” will manage only 10% of the total budget of the municipality. In addition, more than half of this money will be devoted to repair public schools in the district.

One of their main functions -theoretically, at least- is “to promote and develop citizens’ participation in the management and improvement of the municipal services, in order to reduce differences across the neighborhoods of the city”. But the limited budgetary power of the districts clearly prevents this participation from being really effective.

**Score: 0**

#### **61. Power distribution in the city**

In general terms, the Executive branch is ‘de facto’ predominant in all levels of the Spanish political system, although it is formally a parliamentary system in all its levels, and the municipalities are no exception. Generally, the main issue is the lack of effective mechanisms of checks and balances that would effectively allow the Legislative branches to exert a greater control over the Executive. But even those that exist are generally rarely used, as a strong party discipline is generally predominant at all levels of government in Spain, and minority or coalition governments are usually less frequent than majority governments.

The Executive is ‘de facto’ generally dominant in most decision-making processes at the local level in Madrid. Theoretically, it would be possible a greater balance in the power distribution, as the Legislative branch has important powers in passing the budget, the taxes, and the zoning and urban development. The Legislative branch is also the one that selects the Mayor, and that can replace him/her with a vote of no confidence. However, in Madrid single-party majority governments have prevailed for most of the period since the first municipal elections in 1979 and, thus, the Executive dominates in practical terms.

#### **62. Electoral systems- local level**

Proportional (D’Hondt rule), with a single constituency (the whole municipality) that elects the 55 councilors.

**Score: 1**

#### **63. Party system in the city**

Multi-party system (currently close to two-party system in practical terms, although in other terms the smaller United Left had a greater share of the seats). Although the electoral system does not substantially reduce proportionality, de facto there are currently only 3 parties that actively participate in the political landscape of Madrid and obtain representation. In fact, during the 1987-1991 term 4 parties were represented in the city council. However, the only relevant cleavage in Madrid has been the left-right cleavage, which is currently represented in Spain primarily by the three parties with representation in the council of Madrid. In Madrid the Green Party, for instance, is very weak.

The municipality is made of 55 seats, which are distributed as follows (2006):

Center-right Party (PP): 30

Socialist Party (PSOE): 21

United Left (IU): 4

**64. Party (ies) in the power in the city**

One party, the centre-right “Partido Popular” has been in power with no interruption since 1991 and with absolute majorities ever since. The next municipal elections are scheduled for June 2007.

**65. Party(ies) in power- national level since 1996****From 1996 to 2004:**

The centre-right party “Partido Popular”, with simple majority during the 1996-2000 term and absolute majority during the 2000-2004 term.

**From March 2004 until now:** Socialist Party (“PSOE”), with simple majority

**66. Party (ies) in power- local level since 1996****From 1996 to 2006:**

Centre-right party (“Partido Popular”) with absolute majorities.

## 2. PARTICIPATION MECHANISMS

**67. Referenda (local level)**

In Spain, referenda (technically considered as such) are legally not allowed at the local level. In addition, referenda in general terms in Spain are not binding with the exception of those called for the ratification of National constitutional texts or amendments, and the ones aimed at the approval of the “Estatuto de Autonomía” (the equivalent to the Constitution at the regional level).

However, the City Council can carry out a particular type of consultation, which is called “citizen consultations” that is not binding either. In practical terms, there is no substantive difference between ordinary “referenda” and “citizen consultations” in terms of procedures and consequences, but Spanish law prevents them from being called ‘referenda’. An important difference, however, is that citizens’ consultations can in fact include individuals legally not eligible to vote (e.g. all residents, regardless of nationality). This is why we score here 0.

**Score: 0**

**68. Who can initiate the referendum? (local level)**

- 1) “Citizen Consultations”: the Major of the city, after obtaining the support of an absolute majority of local representatives in the city council.
- 2) Other types of similar mechanisms (i.e. only in one or two districts) can be proposed by the “Consejos Territoriales”, “Consejos Sectoriales” or “Consejo Director de la Ciudad” (Territorial Councils, Sectorial Councils and Directing Council of the City)<sup>100</sup>.

**Score: 0**

**69. Number of (consultative or binding) referenda lead over the past 10 years**

None to our knowledge with the full city of Madrid as the constituency.

There have been however some ‘pilot’ consultations in parts of the municipality. For example, in 2004 the municipality of Madrid organised an electronic citizen consultation in the Central District of the city (“Centro”) around the needs in the district. Only 0.65% of the total population of residents in the district participated. An interesting aspect of this consultation is that immigrant residents were entitled to vote, and nearly 8% of the

<sup>100</sup> These councils gather officials, representatives of organizations and, as for the two first Councils (Territorial and Sectorial ones), individual citizens. Territorial Councils and Sectorial Councils have a consultative role, they aim at favoring the participation of civil society organizations and citizens in local policies. The Directing Council of the City has a study and consultative role in the field of local development, strategic planning and large urban projects. See the following indicators.

participants where Latin Americans.

Since this pilot, other experiences of electronic (online and with mobile phones) consultations have taken place in several districts (Hortaleza, Chamberí, Retiro, Moratalaz, and Salamanca). Also there have been several consultations around the “Agenda 21” proposals by the municipality. In general terms, these consultations have rarely activated the vote of more than 1% of the total population entitled to vote.

**Score: -1**

## **70. Existence and type of citizen assemblies**

In Madrid, the local government promotes consults to citizens by means of the Territorial District Councils (“Consejos Territoriales de Distrito”), which were created in 2004<sup>101</sup>. These are consultative and information bodies, with the capacity to make proposals about issues related to the citizens’ participation, associations and other civil society’s organizations at the district level. There exists one “Consejo Territorial” by district, and they are attached to the “Junta de Distrito” (District Council). Their members are 40 at maximum: 1 district representative, 1 representative of the associations of the district, 8 citizens of the district that belong to political parties, representatives of other associations in the district such as neighbours’ associations, 1 member of some of the “Consejos Sectoriales”. There also are 4 individual citizens who participate as pure citizens living in the district and who are randomly selected from the census.

Sectorial Councils (“Consejos Sectoriales”) also exist. They are consultative bodies too. They were created in 2004 too, in order to channel the participation of citizens and associations in the main areas of local policies. They are intended to complement the sphere of participation created through the “Consejos Territoriales”. Sectorial Councils are one by area for the whole city.

In addition, we should consider here the recent constitution of the “District Boards for dialogue and coexistence” and “Foro Madrid”, which were created very recently, in 2006. They are both aimed at promoting the participation of citizens in the local political life. The “Foro Madrid” is the Sectorial Council aiming at channelling citizens’s participation in the field of social and intercultural coexistence, diversity and migrations. The “District Boards for dialogue and coexistence” are attached to the Foro Madrid and function at the district level. They are aimed at favouring the participation of individuals and associations regardless of their national origin. In principle, they would have the possibility to submit formal suggestions and recommendations to the city council for the better organization of daily matters in the neighborhoods.

In general terms, foreigners can participate in all these bodies, both personally and through their associations.

These bodies generally gather once each three months.

However, all these mechanisms are little developed as yet and hardly visible. Representation in these organisms is not clear enough because most times they work through associations and jointly with party representatives. Regarding specifically the “Foro Madrid” and the “District Boards for dialogue and coexistence”, it must be said that only 8,000 people of the total population of Madrid city over 16 years old participated in the election of their members of last November, which indicates that these bodies are not really achieving their goal so far.

**Score : 0**

## **71. Powers of citizens assemblies**

See 70.

The Territorial District Councils and Sectorial Councils only have a consultative role. It

<sup>101</sup> Similar bodies existed before, but with ver little powers and real functions.

is the same for the “District Boards” and “Foro Madrid”. These are very new bodies so, in practice, they have not been consulted yet.

Overall, we cannot say that nothing exists. Our score would be maybe -0.5

**Score: 0**

**72. Involvement of civil society organizations in the definition of local policies**

Actually, consultation is rare in the case of Madrid. There is no real participation of the civil society in the definition of policies, although consultative bodies (Territorial Councils, Sectorial Councils, Foro Madrid and District Boards for dialogue and coexistence) do exist. These bodies have not properly developed their function so far. In addition, the manner their members are selected and their only consultative role makes it very difficult to believe that they are going to play a strong role in the definition of local policies.

**Score: -1**

**73. Involvement of civil society organization in the implementation of local policies**

It is very common, especially in policy areas such as social services, cultural activities, participation, etc., that the local government subsidizes associations/NGOs to develop projects/actions in the sphere of the call. Moreover, the relationship between the local government and some of the largest NGOs in this regard could be labelled as true “partnership”.

**Score: 0**

**74. Pluralism of the participation system in the city**

None, because there is no true participation system (or system of interest representation) at the local level.

**Score: -1**

**75. Is there a specific department in the local council devoted to promote citizen participation?**

In the city of Madrid, there exists a General Directorate of Citizen Participation, which is integrated within the “Department of Economy and Citizen Participation”.

There are also agents of citizen participation in the District Councils, which are aimed at promoting the participation of both individuals and associations.

The interest of the local government in increasing citizen participation has been clearly visible since 2004.

**Score: 1**

**76. Is there a bill of rights or a similar local legislation that regulates how citizens can influence the decision-making processes in ways other than selecting their elected representatives?**

Yes. “Reglamento Orgánico de Participación Ciudadana, 2004” (Regulations of Citizens’ Participation), which recognizes the following rights and participation mechanisms:

- petition (which is already established in the Constitution)
- effective participation of neighbours in the main bodies of the City Council and District Councils (however, representation in these bodies is not transparent and suggestions/demands made by citizens are never binding)
- right to popular initiative
- citizens proposals
- right to be listened, in public sessions

It seems to be a wide variety but they are all non-binding. They are always consultative and mechanisms of election of the members of councils and committees are not very transparent.

**Score: 0**

**77. Number of local-council-owned buildings granted to associations as meeting spaces, raw number per 1,000 inhabitants**

The information provided by the staff of the municipality of Madrid does not grant local-council-owned buildings to associations as a general rule. It only grants them in some occasions for specific events.

However, information on their website recently discovered states that (as of July 2006) they have granted the use of 71 spaces for permanent use by associations, which represents 0.02 space per 1,000 inhabitants. However, after contacting them by phone, in order to check whether this information was true or not, the staff of the municipality was unable to confirm this information. Therefore, so far we cannot confirm that these 71 spaces have been effectively granted to associations.

**Score: 0.02**

**78. Average percentage of local budget devoted to subsidising associations in general (1995-2005). Raw percentages**

Total budget (2005): 0.27% (total amount 12.571.740 Euros).

This includes all sorts of subsidies or monetary transfers made to associations and foundations by the municipality (including those in exchange for the provision of services by associations).

The budget that is destined exclusively for the “promotion” of associational development is of 830,000€ (0,02% of total budget).

**Score : 0.27%**

**79. If there are sub-local public structures: do citizens have participation mechanisms within these structures?**

In Madrid, there are “Consejos Territoriales de Distrito” (District Territorial Councils), which are composed by a representative of the council, representatives of associations and randomly chosen citizens.

The constitution of the Madrid Forum and Districts Boards in 2006 intends to improve the existing arrangements.

However, all these mechanisms are not really functioning so far. In addition, the citizens’ participation to the elections aimed at electing the members of the District Boards for Dialogue and Coexistence and of the Madrid Forum for dialogue and coexistence last November was extremely low.

**Score: 0**

**IV – SPECIFIC POS (related to immigration and ethnic relations)****80. Main responsibility for immigrants’ integration policies**

While border controls and admission policies are clearly an exclusive competence of the national government, regional governments are allowed to regulate on immigration issues within the limits of their own competencies (health care, education, social services, etc.). However, these competencies have not been extensively developed so far. Regional governments and local governments, above all, solve daily issues but region-specific legislation on this field is still rare.

**Score: 0**

**81. Public information and support services for immigrants at the local level (which inform them about their rights, the institutions to which they can address, etc).**

1) Bodies and administrative units:

- “Immigrants’ Information and Orientation Office” (municipality)

- “Anti-discrimination Unit” (municipality)
- Centres for Social Attention to Immigrant Population (CASI, Centros de Atención Social al Inmigrante), 8 centres in the city of Madrid (funded by Regional Government)<sup>102</sup>.
- Regional Office for the Integration of Immigrants (funded by Regional Government).

2) Publications:

- Guide of Immigration Resources (“Guia de Recursos de la Inmigración”)
- “Madrid Multicultural Coexistence Guide”

3) Other services:

- Services of social and intercultural intermediation (SEMSI), available in 26 social centres (“centros sociales”)<sup>103</sup>
- Services of neighbourhood intercultural intermediation (Servicios de mediación vecinal intercultural), available in 10 neighbourhoods (“barrios”).
- Programme of social dynamization in public parks (this programme is quite related to immigrants since they use public parks a lot)
- Programme of access to accommodation for immigrants (funded by Regional Government).
- “National Houses” (Casas Nacionales o Centros de participación e integración de inmigrantes) are some of them managed by associations of immigrants, addressed to specific nationalities, and funded by the Regional Government. Madrid city hosts the “Houses” of Bolivia, Ecuador, Perú, and Colombia.

We have added regional services funded by the Regional government but based in Madrid because these directly affect the “availability” of information and support to immigrants in the city.

**Score: 1**

**82. Which institution(s) has(ve) the leading role in the field of immigrants' integration? – Local Level**

Local councilor in charge of the General Directorate of Immigration, Cooperation to Development and “Social Volunteering”, which is integrated in the Area of Employment and Services to Citizens.

**83. Policies related to immigrants' integration at the local level**

Actual implementation of policies with specific budget. The main lines of these policies are the following:

- Adaptation of the local services to diversity
  - Service of Support to Diversity Management
- Normalization in the access to resources and incorporation to society:
  - Co-existence School of the city of Madrid
  - Local Office of Information and Orientation for Integration
  - Service of translation
- Specific welcome emergency programs and programs of incorporation to the society of Madrid
  - Immigrants reception centre
  - Program to prevent exclusión of young immigrants

<sup>102</sup> They are designed as a complement to ordinary social services; the immigrant must go first to the general social services office in his/her district and depending on his/her situation and needs, he/she can be sent to the a CASI, where he/she can receive specialized attention or help for different issues.

<sup>103</sup> The SEMSI are particularly devoted to promote intercultural understanding and co-existence in the city. It exists since 1997. In 2004 there were 27 mediators from 16 different nationalities working in SEMSI. These people act as mediators between the immigrant population and the social services and public institutions in general.

- Improvement of the co-existence
  - Program for education in tolerance and solidarity in schools
  - Program for Youths
  - Sensibilization campaigns
  - Soccer Competition called “Mundialito Convive”
  - Co-existence Parties in Districts of Madrid
- Improvement of the co-existence, participation and co-responsibility
  - Madrid Forum
  - district Boards for dialogue and co-existence
  - Support to associationism
  - Support to other projects aimed at promoting social co-existence
- Management and prevention of conflicts:
  - Intercultural Mediators
- Actions against discrimination, racism and xenophobia
  - Anti-discrimination unit
  - Legal assistance group
- Employment promotion
  - Labour integration firms
- Neighbourhood-centred actions.

**Score: 1**

**84. Is there a specific department in the local council devoted to immigrants' integration policies?**

Yes. The General Directorate of Immigration, Cooperation to Development and “Social Volunteering”, which is integrated in the Area of Employment and Services to Citizens.

**Score: 1**

**85. Percentage of total local budget devoted to immigrants' integration policies (raw percentage)**

At the **local level**: we face a big difficulty in this indicator. Since integration policies are not completely centralized in only one Department, the budget in the Immigration Area within the General Directorate of Immigration and “Social Volunteering” accounts only for a fraction of the total local budget invested in integration policies. However, it is extremely difficult to trace each of the programs targeted to the immigrant population within each of the Departments.

Following personal communication with responsible in the Immigration Department, the total budget of this area for 2005 was 11,671,447.71 €, which represents 0.27% of total budget for 2005.

**Score: 0.27**

**86. Council/board/assembly that represents immigrants/minority groups (for example, in France, the Parisian Council of Non-EU foreigners)**

There is the “Foro Madrid”, which is mixed, not exclusive of immigrants. But this body is still under construction.

Its composition is the following: representatives of immigrants' associations, citizens' associations and social groups (political parties and trades unions), and public powers. These representatives are elected by all citizens (including illegal immigrants as far they are registered in the Municipal Population Census). Elections of this type were celebrated last November 2006 for the first time. Only 8000 people participated.

**Score: 0**

<b>87. Involvement of minority/immigrant organizations in the <u>definition</u> of local policies</b>
Nothing yet because “Foro Madrid” would be the only board with this attribution but it still is not working.
<b>Score: -1</b>
<b>88. Involvement of minority/immigrant organizations in the <u>implementation</u> of local policies</b>
The same as Indicador 73, involvement exists through periodical calls to apply for subsidies to develop projects in specific areas. However, the involvement of immigrants' associations is often smaller than large NGOs because they lack the resources and infrastructure to apply. In any case, many of the Centres for Social Attention of the Immigrant Population (known as CASIs) are managed by immigrants' associations.
<b>Score: 0</b>
<b>89. Involvement of organizations specialized in immigration/integration issues in the <u>definition</u> of local policies</b>
See 72 (and 87). There is no real participation of the civil society in the definition of policies, although consultative bodies do exist since these bodies have not properly developed their function so far
<b>Score: -1</b>
<b>90. Involvement of organizations specialized in immigration/integration issues in the <u>implementation</u> of local policies</b>
In partnership with public institutions.
<b>Score: 0</b>
<b>91. Involvement of organizations playing a relevant role for immigrants' integration (such as Human rights organizations) in the <u>definition</u> of local policies</b>
See 72 and 89.
<b>Score: -1</b>
<b>92. Involvement of organizations playing a relevant role for immigrant' integration (such as Human rights organizations) in the <u>implementation</u> of local policies</b>
In partnership with public institutions, as other NGOs.
<b>Score: 0</b>
<b>93. Involvement of the local power in the funding of minority/immigrants organizations</b>
As far as we know, there is not a specific program of this type at the local level but only at the regional level (in 2006, the call for subsidies of this type had a budget of 500,000 Euros). Therefore, at the local level there is only one general call for subsidies in which immigrants' associations compete with non-immigrant ones. It is not possible to provide information about their subsidies as there is no systematic publication of this type of figures. However, by the end of 2006 a new project called “Vivero” (Greenhouse), which intends to facilitate public spaces where new associations of immigrants can be created and can have infrastructure for their meetings and activities until they develop fully. We have no specific information about the budget of this new program.
<b>Score: 1</b>
<b>94. Requirements to be able to apply for subsidies</b>
Since there is no specific call for immigrants' associations, the requirements of the general call apply. (Requirements to apply to the general call for subsidies)
1) To be registered in the municipal Register of Citizens Organizations

2) To have been declared of “public utility/interest”

3) Not to be subject to any prohibition to receive this type of subsidies

**Score : 1**

**95. Party arrangements to favor the presence of persons with ethnic minority background in the leadership of the party – Local level**

There are no formal arrangements in this regard.

**Score: -1**

**96. Party arrangements to favour the presence of persons with ethnic minority background in the party (rank-and-file members)– Local level**

There are no formal arrangements in this regard.

**Score: -1**

**97. Share of radical right and anti-immigrant parties in the electoral vote – National results: general elections Mean over the 10 past years (raw percentage)**

2004 → 0.24 %

Parties included: Democracia Nacional, Falange Española de las JONS, La Falange, Movimiento Social Republicano, Partido Demócrata Español-PADE-, Falange Auténtica, España 2000.

2000 → 0.31 %

Parties included :Grupo Independiente Liberal, La Falange, Plataforma España 2000, Partido Demócrata Español, Falange Española Independiente-Falange 2000 y Fuerza Nueva (with only 343 votes). Most of these votes went for the Independent and Liberal Party (GIL), the party in office at the Marbella city council which is not considered radical right but it was anti-immigration.

1996 → 0.07 %

Parties included: Falange Española Auténtica, Alianza por la Unidad Nacional, Falange Española Independiente

Mean over the 10 past years (raw percentage, over valid not total votes): 0.21%

**Score: 1**

**98. Share of radical right and anti-immigrant parties in the electoral vote – Local results: general elections Mean over the 10 past years (raw percentage)**

2004 → 0.30 %

Parties included: Democracia Nacional, Falange Española de las JONS, La Falange, Alianza por la Unidad Nacional, Falange Auténtica, Partido Demócrata Español, Movimiento Social Republicano, España 2000

2000 → 1%

Parties included: Grupo Independiente Liberal, La Falange, Plataforma España 2000, Partido Demócrata Español, Falange Española Independiente-Falange 2000

1996 → 0.11 %

Parties included: Falange Española Auténtica, Alianza por la Unidad Nacional, Falange Española Independiente

Mean over the 10 past years (raw percentage, over valid not total votes): 0.47 %
<b>Score:1</b>
<b>99. Share of radical right and anti-immigrant parties in the electoral vote – Local elections (city council) Mean over the 10 past years (raw percentage)</b>
2003 → 0.29 %
Parties included: La Falange, Falange Española Independiente, Partido Demócrata Español, Falange Auténtica.
1999 → 0.43 %
Parties included: Alianza por la Unidad Nacional, La Falange, Falange Española Independiente, Partido Demócrata Español
1995 → 0.1 %
Parties included: Falange Española y de las JONS y Falange Española Independiente
Mean over the 10 past years (raw percentage, over valid not total votes): 0.24%
<b>Score:1</b>

## **GENERAL CONCLUDING COMMENTS**

It is not easy to classify the current situation as particularly open or closed since in many cases policies have not been yet developed due to the novelty of the immigration to Spain. In addition, there are some contradictions in the way that integration policies are defined: while access to social services and welfare rights are generously granted even to undocumented immigrants, voting rights at the local level have been never recognized and the recent debate does not seem to have promoted any important change in a new direction. In general, individual and social rights are much more strongly protected than group and political ones.

On the other hand, EU regulations are commonly adopted in those areas where there is a lack of previous national legislation (this has been very much the case of family reunion), which often results into an unexpected or unjustified restrictionism in areas where the national situation does not seem to demand it. Therefore, in these areas it is also difficult to evaluate any kind of trend towards more or less openness over time. In fact, the absence of legislation concerning many topics in the field of immigration cannot always be interpreted as a conscious political option but rather as the result of the fact that immigration has arrived in large numbers only recently. Additionally, in the case of Madrid City, the fact that the same party has been in office for a long time makes even more difficult these inter-temporal comparisons. Although, a change in the Mayor office in 2004 clearly signaled a change in attitude towards policies around immigration, with a new phase that clearly signals a more open view, with a much greater emphasis in the promotion of immigrants' participation and associations, in addition to other services and policies towards the integration of immigrants. Most of these initiatives have not been implemented yet, so it is still not possible to assess their actual meaning and impact.

However, it is true that opinion polls reveal an increasing worry about the (excessive) presence of immigrants in the country –immigration has replaced unemployment and terrorism as “the most important problem the country faces” in recent polls-, which is probably not the best context to think of “liberal” developments in the near future.

Finally, the existence of a large number of undocumented immigrants and a parallel “black market” often distorts the interpretation of legislation, which is frequently far from reality. Enforcement is weak and, therefore, restrictive measures enjoy little credibility.

Immigrants of Latin-American origin enjoy clear privileges in many fields. Probably the most visible one is access to the Spanish nationality (only two years of previous legal residence versus the general rule of ten years, which applies to Moroccans among others); however, the fact that they also speak Spanish makes much easier for them as a group to access different spheres of daily and public life. For instance, their presence in public radio and TV channels is illustrative in this regard. In any case, the extent to which this situation reveals an open preference for Latin-Americans versus others is always difficult to establish since the language issue and the existence of previous relationships with their countries of origin have facilitated contacts and actions of the type described above.

## **COUNTRY AND CITY**

Switzerland, Zurich<sup>104</sup>

### **INTRODUCTION**

The main objective of this report is to give an insight on the institutional political opportunity structure in Zurich for immigrants and more specifically for the three studied groups: Italians, Turks and Kosovars. Indeed, the POS may vary according to the origin of immigrants especially for what concerns conditions of entry and stay in Switzerland. Before the description of the single indicators of the POS, we will briefly outline the distribution of competences between the national and the cantonal level in the field of immigration, citizenship and integration.

The Swiss executive federalism implies that many national laws and policies are implemented at the cantonal level and that the cantons have a high autonomy in the implementation. Entry and settlement in Switzerland is a national competence. The Federal Office for Migration is responsible for all concerns related to foreigners (entry and stay) and asylum. Thus the conditions of entry and stay do not vary between cantons. Switzerland's immigration policy is based on the distinction between EEA and non-EEA nationals. Indeed, since the bilateral agreements between EU countries and Switzerland, in June 2002, conditions of entry and stay are more favorable for EEA nationals. EEA nationals will progressively be considered, except for political rights and access to certain professions, as nationals.

Thus different conditions apply for EEA and non-EEA nationals in terms of entry and stay. Third country nationals are admitted only in a limited number and only if well qualified, unless they are family members of nationals/foreign residents in Switzerland. The required conditions for obtaining a short-term permit are thus more restrictive for non-EEA nationals. Permits in Switzerland can be divided into two main categories: settlement permits (long term) and stay permits (short-term)<sup>105</sup>. All short-term permits are causal permits. This type of permit is granted for a specific motive (work, family reunion, asylum etc.) and is withdrawn when the motive on which the decision of according the permit was based disappears. For instance, a B permit for family reunion will not in principle be renewed in case of divorce. Long-term permits are delivered almost automatically after a given length of stay in Switzerland (the length of stay required for obtaining a long-term permit depends mainly on the origin of immigrants, that is between EEA and non-EEA nationals). This permit is delivered independently from the initial motive of presence in Switzerland and can be revoked only in case of public security threat. The conditions of entry and stay of non-EEA nationals is ruled

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<sup>104</sup> This report has been prepared by Nina Eggert and Miruna Morariu, researchers in the Swiss LOCALMULTIDEM team.

<sup>105</sup> There are different types of short- term permits. The B permit is issued for work, family reunion, studies, humanitarian reasons (refugees). The required conditions to obtain a B permit depend not only on the origin of the immigrant but also on the type of B permit. The duration of a B permit is of one or five years according to the type. The L permit is a short-term work permit. Its duration goes from minimum four months to two years. This permit is granted to EEA nationals coming to Switzerland for searching a job or for short time work contracts. Finally the N permit (asylum seekers waiting for a decision) and the F permit (for provisionally admitted foreigners) have a one year duration but can be renewed every year. The most delivered short-term permit is the B permit, thus most of the indicators will be scored on the basis of the condition required for a B permit.

by the Law on Entry and Stay of Foreigners in Switzerland, whereas the conditions for EEA nationals are ruled by the Agreement on Free Movement of People from 2002.

Communes and cantons are primarily responsible for naturalizations. The federal law on Acquisition and Loss of Swiss Nationality (LN) gives only general orientations on the required conditions for naturalizations. The communes and the cantons can set their own requirements in terms of length of stay, economic resources, language knowledge and integration. Thus, the Swiss citizenship is a three level citizenship: one needs to obtain the national citizenship, the cantonal and the local one. The high autonomy of the communes and the cantons in the field of naturalizations creates inequalities in terms of access to Swiss citizenship from one canton to the other.

Although Switzerland has been an immigration country for over 60 years, Swiss policies on integration are introduced only in 2000 on the federal level. Until 2000, the Swiss immigration policy was based on the assumption that immigrants would come to the country for a limited time period and then return to their homelands. The immigration issue has until the end of the 1980s been characterized by an antagonism between two main actors: the economy, claiming for open borders in order to fill the need for workforce, and the xenophobic milieu claiming for more restrictive conditions of entry on the territory, using in a large extent the instruments of direct democracy (Mahnig 2005). One of the reason for the late awareness of national authorities about the settlement of immigrants and the need for an integration policy can be related in part to the conflict between these two main actors, as the federal authorities were more reacting to the demands of these two mains actors, without developing a coherent immigration and immigrant policy. Another reason could also be the fact that integration issues were always a competence of the cantons and the local entities (Niederberger 2005). The concept of integration has been mentioned in the federal law only in the new law on foreigners. Naturalization is still considered as the last step in the integration process, and until recently candidates for naturalization were expected to be assimilated to the Swiss culture. The law on nationality today requires integration in the Swiss community, but the text remains vague on the definition of the concept. This change in the law came along with the adoption of the ordinance on integration in 2000. According to this, policies of integration are left to the cantons that are implementing and adopting it to their specific contexts. At the national level, only broad objectives are defined. Some integration projects are then founded by the confederation according to these objectives, but also to the extent that cantons, communities or third parties also make appropriate contributions.

Immigration in Switzerland has changed in the last years. Indeed, the first waves of immigration after WWII were mainly composed of guest workers from south European countries: Italy, Spain and Portugal. Immigration was rather homogeneous in terms of national origin of immigrants. Nowadays, Switzerland, as other European countries face a more heterogeneous immigration in terms of national origin. Indeed, in 2005 foreigners from 188 different nationalities were living in Switzerland (ODM 2006). The most important source of immigration are European countries (59% of foreigners living in Switzerland), which can be related to the bilateral agreements between Switzerland and European countries on free movement of people. Italians still constitute the most important national group in Switzerland. Immigration from non-European countries has also increased and the most important national groups are Turks, nationals from Former Yugoslavia, Sri Lanka and Brazil. If European immigrants are mainly high-qualified workers, the main reason for immigration for non Europeans is family reunion (Turks, Brazilians and nationals from Former Yugoslavia) and humanitarian (Sri Lanka) (ODM 2006). Finally, illegal immigration is also increasing,

with immigrants coming mainly from South and Central America and Africa. But no precise figures are available on illegal immigration (Longchamp et al. 2005).

The debate on immigration has long focused on conditions of entry and stay on the territory, integration became a central issue only recently. A new law on immigration and asylum has been adopted by referendum in 2006, which will enter progressively into force starting from January 2008 and will replace the existing Law on Residence and Settlement of Foreign Nationals. The new law reinforces the distinction between EEA and non-EEA immigrants with the aim of favoring immigration of high-qualified workers. Indeed, EEA immigrants will be granted the same conditions of access to the labor market as Swiss citizens, non-EEA immigrants will be granted access to the labor market only if highly qualified. While there has been a free movement of persons between Switzerland and the EU since 2002 (with transitional periods until 2014), limitations apply to all non-EU states. The new law introduces for the first time the concept of integration (so far only an ordinance adopted in 2000 was mentioning integration). Indeed, in the new law the principles and objectives of the integration of foreign nationals are extensively laid down. Finally, this law is also reinforcing means for limitation of illegal immigration. Crime and abuse of the legislation concerning foreign nationals will be punished more severely. Particular measures are stipulated against illicit labor and marriages of convenience. In sum, conditions of entry and stay will be more restrictive than before for non-EEA nationals.

***Main Swiss Laws on immigration:***

RS 142.20 Law on Residence and Settlement of Foreign Nationals (LSEE), 1931, will be replaced from 2008 by Law on Foreigners (Letr)

RS 823.21 Ordinance on the Limitation of the Number of Foreigners (OLE), 1986

RS 141.203 Ordinance on Introduction of Free Movement of People (OLCP), 2002

RS 142.205 Ordinance on Integration of Foreigners (OIE), 2000

RS 141.0 Law on Acquisition and Loss of Swiss Nationality (LN), 1952

RS 142.31 Law on Asylum (LASI), 1998

# **INSTITUTIONAL POS INDICATORS**

## **I – INDIVIDUAL RIGHTS**

### **1. ACCESS TO THE COMMUNITY**

#### **a) Short-term permits**

##### **1. Automatic acquisition of the permit if mother or father of a national minor child**

None of the short term permits (N, F, L, B) can be delivered automatically to the father or the mother of a national minor child. These permits are causal permits, thus there is no possible automatic acquisition. A minor can be national only if one of the parents is a national.

**Scores:**

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: -1**

##### **2. Automatic acquisition of the permit if marriage with a national**

In case of marriage with a national, foreigners obtain a B permit for family reunion automatically. The permit will be withdrawn if the marriage is dissolved before three years. No distinction is made between EEA nationals and non-EEA nationals. For the other permits (N, F, L) there is no possibility of automatic acquisition as these are causal permits.

**Scores:**

**General score: 1**

**Turks: 1**

**Kosovars: 1**

**Italians: 1**

##### **3. Economic resources requirement**

In general no economic resource requirements are attached to the issue of short term permits (F, N, L) in Switzerland. As B permits are usually granted for work, there are no economic resource requirements either. In the case of a B permit delivered for family reunion there are some economic requirements. (See indicator 20)

The few exceptions are:

- **L permit:**

The L permit can be delivered to EEA nationals for a four months period for job seeking; in this case there are economic resource requirements: sufficient financial means not to have to apply for social assistance benefits during their stay. Financial means shall be considered sufficient if they exceed the amount below which nationals, having regard to their personal situation and, where appropriate, that of their family, can claim social security benefits. Where that condition cannot be applied, the applicant's financial means shall be regarded as sufficient if they are greater than the level of the minimum social security pension paid by the host state.

- **B permit for student:**

The authorization is delivered if the student is able to attend the lessons, can prove economic resources for his entire study time (sufficient economic resources are of 30 CHF per day / directives OFE 214) and if his departure from Switzerland at the end of the studies seems guaranteed.

Nevertheless, the two above mentioned cases remain quite marginal; the B permit (for work)

is the most delivered one. No distinction is made between EEA and non-EEA nationals. Thus, the score is based on the conditions for the B permit.

**Scores:**

**General score: 1** (except family reunion: -1, see indicator 20)

**Turks : 1**

**Kosovars: 1**

**Italians: 1**

**4. Link between work regime and permit regime**

L permit: obligation to have a contract to stay on the territory. This permit is delivered only to EU and EEA nationals, as non-EU/EEA nationals are practically excluded from the Swiss labor market. Indeed the Swiss law on foreigners states the priority of Swiss citizens and residents and this includes EU/EFTA nationals. Thus, an L permit will hardly be delivered to non EU/EEA nationals, but there are a few exceptions:

- Short time activity for education purposes
- Highly qualified person when particular motives justify an exception
- Au pair employees from the U.S.A, Canada, New Zealand and Australia
- Artistic activities

Third country nationals will obtain a short-term work permit only if the employer is able to prove that no Swiss citizen or resident (including EEA nationals) is able or willing to hold the position. This permit can be delivered for a maximum of four months to EU/EEA nationals to search for a job. And it can be renewed for one more year (maximum length 24 months) if the work contract is renewed.

Until 1992, Ex-Yugoslavians were eligible for short-term work permits, as the region was considered as a traditional recruitment region.

The same conditions apply for the B permit. Foreigners need to have a contract before entering the territory. The access to a contract is much easier for EEA nationals than for non-EEA nationals as the Swiss law on foreigners states the priority of Swiss citizens and residents. To obtain a B permit for a non-EEA national, an employer will have to prove that no Swiss citizen or resident is able or willing to hold the position.

As mentioned above B permit are mainly issued for work. The duration of the permit is of the same duration as the work contract.

**Scores:**

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: 1**

**5. Grounds for withdrawal:**

- a. proven fraud in the acquisition of permit
- b. sentence for serious crimes
- c. actual and serious threat to public policy or national security
- d. sufficient level of resources

Grounds for withdrawal include all grounds outlined above, but it includes also other grounds. Indeed, being mainly causal permits, short-term permits can be withdrawn as soon as the condition for which the permit has been delivered disappears.

Unemployment applies as a ground for withdrawal only for non-EEA nationals. EEA nationals can remain on the Swiss territory and search for a job under the condition of sufficient financial means (see indicator 3).

As all other permits, in case the motive on which was based/accorded the authorization of permit is not applicable any more, the permit will not be renewed.

**Scores:**

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: -1**

**b) Long-term residence permits (duration of validity:  $\geq 5$  years)**

**6. Automatic acquisition of the permit if mother or father of a national minor child**

In Switzerland due to jus sanguinis a child is automatically national in case one of his parents at least holds Swiss citizenship (if parents are married). In case the parents of the child are not married the child holds the mother's citizenship. So regarding the permits, this goes the same way. Only a marriage with a national or a foreigner that holds a long-term permit allows to have a long term residence permit and after that to apply for naturalization.

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: -1**

**7. Automatic acquisition of the permit if marriage with a national**

In case of marriage with a national, acquisition of C permit after 5 years under the condition of a regular and uninterrupted stay. (art. 7 al. 1 LSEE)

No distinction between EEA nationals and Non EEA nationals

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: -1**

**8. Required minimum time of habitual residence**

For EEA nationals:

After 5 years starting from the acquisition of the stay permit B under the condition of a regular and uninterrupted stay.

For non EEA nationals:

After 10 years starting from the acquisition of the stay permit B under the condition of a regular and uninterrupted stay.

Under certain conditions it can be accorded after 5 years: for refugees, partner of national or established immigrants and for nationals from states with which Switzerland concluded an establishment treaty (UE/USA).

**Scores:**

**General score: 0**

**Turks: -1**

**Kosovars: -1**

**Italians: 0**

**9. Economic resources requirement**

No requirement regarding economic resources but being in a large measure and in a permanent way at the benefice of social assistance constitute an expulsion motive art 10 al I d LSEE, art 66 al b Letr)

**Scores:**

**General score: 0**

**Turks: 0**

<b>Kosovars: 0</b>
<b>Italians: 0</b>
<b>10. Percentage of given permits over the total number of applications - National level</b>
Data on given permits compared to the number of applications are not available
<b>Score: N.A.</b>
<b>11. Grounds for withdrawal:</b>
<ul style="list-style-type: none"> <li><b>a. proven fraud in the acquisition of the permit</b></li> <li><b>b. sentence for serious crimes</b></li> <li><b>c. actual and serious threat to public policy or national security</b></li> <li><b>d. sufficient level of resources</b></li> </ul>
The c permit can be withdrawn:
<ul style="list-style-type: none"> <li>- if sentenced for crime or offence (threat to public order)</li> <li>- if its acquisition has been done by proven fraud.</li> <li>- if more than 6 month spend abroad without informing the authorities.</li> </ul>
No distinction between EEA and non-EEA nationals
<b>Scores:</b>
<b>General score: 0</b>
<b>Turks: 0</b>
<b>Kosovars: 0</b>
<b>Italians: 0</b>
<b>12. Expulsion precluded</b>
<ul style="list-style-type: none"> <li><b>a. after 20 years of residence as a long-term residence permit holder</b></li> <li><b>b. in case of minors</b></li> <li><b>c. residents born in the host country or admitted before they were 10, once they have reached the age of 18</b></li> </ul>
Not mentioned in the law
<b>Scores:</b>
<b>General score: -1</b>
<b>Turks: -1</b>
<b>Kosovars: -1</b>
<b>Italians: -1</b>

### c) Access to nationality

<b>13. Eligibility for second and third generation immigrants (<i>jus soli</i>)</b>
At the federal level:
2 <sup>nd</sup> and 3 <sup>rd</sup> generation of migrants have to follow the procedure as it is for the first generation of immigrants. The only difference is that the years of residence between 10 and 20 years old double count. In that sense this procedure is called “facilitated naturalization” to contrast with the ordinary procedure which is even longer. The migrant has to conform to the Swiss law, to be integrated in Switzerland and not to be a threat to public security. The same conditions apply to both EEA and non-EEA nationals.
Zurich:
At the cantonal level, the same applies as for the national level. But foreigners applying for citizenship between the age of 16 and 25 and who have attended the school in Switzerland in a Swiss national language for at least five years have access to the “facilitated naturalization” procedure where the years spent in Switzerland between 10 and 20 years double count. Furthermore, two years residence are required within the canton and not within the same

commune. At the City level, foreigners born in Switzerland as well as those having access to the facilitated naturalization have a “right” to communal naturalization. This means that the commune has no possibility to refusing the communal citizenship to foreigners satisfying these requirements.

**Scores:**

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: -1**

#### **14. Marriage with a national**

In case of marriage with a national, the procedure for naturalization is easier and faster than the normal procedure. The conditions are: to live in Switzerland for 5 years in total, to reside there effectively for 1 year (foreign residents in Switzerland are allowed to live abroad for a maximum of two years, provided they inform the administration. In the case of foreign resident who had lived abroad for some time, he has to be back in Switzerland for at least one year before applying) and to live in marital community for 3 years with a national. The same conditions apply to both EEA and non-EEA nationals.

Zurich:

No specific cantonal or communal requirements, the same applies as at the national level.

**Scores:**

**General score: 0**

**Turks: 0**

**Kosovars: 0**

**Italians: 0**

#### **15. Required minimum time of habitual residence**

An immigrant who wants to obtain Swiss citizenship has to satisfy conditions at the national level and at the local level.

At the federal level: (art 15. LN al 1 and 2)

12 years of residence in Switzerland, at least 3 in the last 5 years before asking for citizenship. However, time spent in Switzerland between 10 and 20 years old double count, so that the minimum time residence is in that case of only 6 years. The same conditions apply for EEA nationals and for non-EEA nationals.

At the cantonal level:

Zurich:

Usually 2 years within the same commune. But as mentioned above, for foreigners who have access to the facilitated naturalization, 2 years residence is required within the canton.

**Scores:**

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: -1**

#### **16. Economic resources requirement**

At the federal level no conditions of economic resources are mentioned.

At the cantonal level:

Zurich:

To have an economic situation enabling him/her to provide for his/her needs and of the

members of the family at his charge (sufficient resources). Not to be by one's fault or by abuse at the benefice of welfare assistance.

**Scores:**

**General score: 0**

**Turks: 0**

**Kosovars: 0**

**Italians: 0**

**17. Percentage of approved naturalizations over the total number of applications: – National level**

At the national level there is no data on the number of applications. Only approved naturalizations are registered.

**Score: N.A.**

**18. Grounds for withdrawing status**

**a. proven fraud in the acquisition of citizenship**

**b. actual and serious threat to public policy or national security**

The federal authority can withdraw the Swiss nationality (in accordance with the cantonal authority) within 5 years starting from the date of acquisition for those who obtained Swiss nationality by fraud. art 41 LN. The withdrawal of nationality can also be extended to members of a family that obtained Swiss nationality due to collective naturalization. The nationality can also be withdrawn for threat to public and national security

At the cantonal level:

Zurich:

No specific grounds at the cantonal level

**Scores:**

**General score: 0**

**Turks: 0**

**Kosovars: 0**

**Italians: 0**

## 2. FAMILY REUNION

**19. Eligibility for legal residents**

Immigrants coming to Switzerland for family reunion are granted a B permit for family reunion. This is an annual stay authorization giving the possibility to a migrant person to come and join a member of his family in Switzerland. To be eligible to family reunion residents in Switzerland need to hold a C (residence) or B permit (if the holder is an EEA-national). For EEA nationals the right to family reunion is more favorable because family reunion encompasses: children less than 21 years old or at charge, grand children, parents and grand parents at charge. (art 3 al 1c bis OLE, art 41 Letr). For non-EEA nationals it concerns only spouses and minor child. (art 17 LSEE and 42-43 Letr). It is foreseen to extend the right to family reunion to B non-EEA nationals permit holders.

In the meantime, B permit holders have to satisfy further requirements for to be eligible for family reunion.

B permit holder that wants to make his family join him has to have a stable work place, to have an accommodation that is decent for all the family, sufficient economic resources, and that the child care is guaranteed.

Conditions for holders of the following permits:

**C permit**

The spouse of a long-term (C permit) holder receives an authorization of stay (B permit) as long as the conjugal life lasts, and receives a long-term permit after 5 years of regular stay in Switzerland. Children less than 18 years old receive an authorization of residence (C permit) as long as they live with their parents, and under the condition that at least one of the parents has a residence permit (art 7 LSEE).

The very recent law modification (Letr accepted by popular vote in 2006) will modify these conditions and will limit the possibility of family reunion to children who are less than 14 years old (art 42 Letr).

### **B permit (work)**

- Non EU/AELE

The family of a person holding a stay permit (B) can be authorized to stay and work in Switzerland under the conditions of a sufficient income and adequate accommodation (art 38 aloe). This disposition only applies to spouses and children less than 18 years old.

- EU/AELE

Family reunion possibilities are enlarged to children until 21 years old and to parents and children at charge.

#### **Scores:**

**General score: 1**

**Turks: 1**

**Kosovars: 1**

**Italians: 1**

### **20. Economic resources requirement**

For long-term permit holders as well as for EEA-nationals short-term permit holders (B permit), there are no economic resource requirements for family reunion.

Non-EEA-nationals holding a short-term permit have to satisfy further conditions: a stable work place, decent accommodation for all the family, sufficient economic resources, guaranteed childcare.

#### **Scores:**

**General score: 1**

**Turks: -1**

**Kosovars: -1**

**Italians: 1**

### **21. Duration of validity of permit**

The B permit for family reunion is a one-year renewable permit. The duration is fixed regardless of the sponsors' permit.

#### **Scores:**

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: -1**

### **22. Grounds for withdrawing the status**

- a. **Public policy or security major threat**
- b. **Proven fraud in the acquisition of permit (inexistent relationship or misleading information).**
- c. **Break-up of family relationship (before three years)**

The stay authorization ends with the end of family life community. But if the person is married with a Swiss national, the authorization has the same duration as the marriage. In the case the person is married to a foreigner who holds a short term (B) or long-term (C) permit, the authorization of stay lasts as long as the community life. (art 17 LSEE). The new Law on

Foreigners (Letr) does not make this differentiation and states that for family reunion the existence of a common housing is needed (art 42 ss. Letr) whatever is the nationality of the spouses. The authorization can be renewed under very restrictive conditions despite the break-up of the family relationship, in cases of domestic violence for example.

There is no other grounds than a, b and c.

**Scores:**

**General score: 0**

**Turks: 0**

**Kosovars: 0**

**Italians: 0**

**23. Right to autonomous residence permit for partners**

After 5 years of community life, spouses have the right to autonomous residence in Switzerland. No distinction is made between EEA nationals and non-EEA nationals.

Regarding children, there is no mention of autonomous residence in the legislation, but children can acquire automatically a stay or residence permit when they reach the age of majority.

**Scores for partners:**

**General score: 0**

**Turks: 0**

**Kosovars: 0**

**Italians: 0**

**Scores for children:**

**General score: 1**

**Turks: 1**

**Kosovars: 1**

**Italians: 1**

**24. Percentage of entrances in the territory through family reunion**

Family reunion is one of the most important motives of immigration in Switzerland. In 2005 it was the most important one (38.1%) followed by entries for gainful employment (35.8%). However, data concerning the percentage of applications for family reunion over the total number of applications is not available per group.

**Scores: N.A.**

### **3. SOCIAL AND ECONOMIC RIGHTS**

#### **a) Labour market access**

Switzerland has a dual system for granting foreign nationals access to the Swiss labor market. Persons from EU or EFTA member states, regardless of their qualifications, are granted easy access to the Swiss labour market under the Agreement on the Free movement of persons (ALCP). By decree of the Federal Council, workers from all other states—third states, as they are referred to—are admitted in limited numbers to the labor market in Switzerland, if their skills are urgently required and they are well qualified.

The access requirements are listed in the Regulation on Limiting the Number of Foreign Nationals (OLE) and described in more detail in the Directives and Commentary on the Residence and Permanent Settlement of Foreign Nationals (Directives OFE).

A well-qualified person is someone who has a degree from a university or a technical college and several years' work experience. Depending on the profession or specialization of the candidate, the person may also be admitted if they have particular training and several years' of work experience.

*- Short-term permits*

**25. Access to employment**

Access to employment depends not only on the origin but also on the type of short-term permit. The dual system for access to the labor-market makes a clear difference between EEA nationals and non-EEA nationals.

B and L permits are submitted to quotas. The federal government decides a ceiling for each canton according to its need in labor force. L permits are granted in priority to EEA nationals but in the limits of the defined ceilings. Non EEA nationals will gain access to the labor market only to the extent they are highly qualified and that the employer can prove that despite considerable efforts no suitable Swiss national or citizen from an EU or EFTA member state could be found to fill a vacancy. This applies also for B permits. Furthermore, holders of B and L permits need an authorization for any change of employer or profession.

Asylum seekers and provisionally admitted foreigners (F and N permits) are not allowed to work within the 3 first months after arrival in the country. The three months can be extended for asylum seekers as long as no decision has been taken regarding their status. When holders of these permits are granted access to the labor market, the priority of residents and EEA nationals remains. Furthermore, the access to the labor market is limited to some sectors.

At the national level, only settlement permit holders (C permit) have access to the public sector. But not to activities involving an actual participation to the exercise of public authority. In Geneva, B permit holders have access to the public sector. But, in practice, this will be limited to B permits no submitted to quotas (humanitarian, family reunion) as for B permits submitted to quotas, the employer will still have to prove that no resident has been found to fill the vacancy. For Zurich same conditions apply as for the national level.

**Scores:**

**General score: 1**

**Turks: -1**

**Kosovars: -1**

**Italians: 1**

**26. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit of stay**

The termination of a work contract can be a reason to revoke an L permit, but only for non-EEA nationals. In case of involuntary unemployment of more than 12 months a B permit can be renewed for one year instead of five.

**Scores:**

**General score: 1**

**Turks: 1**

**Kosovars: 1**

**Italians: 1**

***-Long-term residence permits (duration of validity:  $\geq 5$  years)***

<b>27. Access to employment</b> Permit C holders are allowed to work and to have an independent activity. They do not need an authorization to change their workplace or profession and can have any activity they want except those explicitly restraint to Swiss citizens, that is those involving an actual participation to the exercise of public authority. (art 3 al 10 LSEE)
<b>Scores:</b> <b>General score: 1</b> <b>Turks: 1</b> <b>Kosovars: 1</b> <b>Italians: 1</b>
<b>28. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit of stay</b>
No, but this permit can be not renewed if he/she is in a permanent way and in large measure at the social welfare assistance.
<b>Scores:</b> <b>General score: 0</b> <b>Turks: 0</b> <b>Kosovars: 0</b> <b>Italians: 0</b>

**b) Welfare state access**

***- Illegal immigrants***

<b>29. Access to social security, social assistance and healthcare for illegal immigrants</b> The federal court confirmed the right to social security independently of the status. Thus illegal immigrants have access to social security. The health insurance is dependent on the place of residence. As the civil code defines the domicile as the place where one resides with the aim to settle, an illegal immigrant can have its residence in Switzerland and have a health insurance. Insurance companies have to insure illegal immigrants and can be sanctioned if they refuse to do so. Indeed, health insurance is partly private in Switzerland. The insurance is compulsory for any person residing in Switzerland, but they are insured by private companies. AVS/AI: pension and invalidity. Any person having a job should pay the contribution regardless of his/her administrative status. Employed illegal immigrants should pay the contribution and are entitled to the benefits under the condition that they contributed for at least a year. Accident insurance (compensation) and LPP: any worker has to contribute and is entitled to the benefits regardless of his/her status. If an employer does not fulfill this requirement, an auxiliary fund will pay the benefits and prosecute the employer. Unemployment: as for other social security any person who works has to contribute. But no benefits for illegal immigrants. Unemployment is only paid if the person can be placed, which is not the case of illegal immigrants, having no work permit. Family assistance can also be paid regardless to the status. But illegal immigrants do not subscribe to these insurances, as this will mean leaving illegality and return (that is why the score selected is 0).
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**Scores:**

**General score: 0**

**Turks: 0**

**Kosovars: 0**

**Italians: 0**

*- Short-term permits*

**30. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support**
- b. minimum housing support**
- c. family and child benefits**
- d. assistance in case of illness**
- e. pregnancy and maternity care**
- f. long-term care**

The access to social security depends not only on the type of permit but also on the origin of immigrants. EEA nationals are granted equal access to social security with nationals. Indeed, the agreement on free movement of people states the equality of treatment between nationals and EEA nationals. In this regard, all the subscriptions paid in the different member States can be exported. Family and child benefits are ruled by the federal law (LAF). No distinction is made between nationalities.

Non-EEA nationals are granted short-term permits under the condition of a work contract (except for family reunion). Having a work contract they contribute to all insurances and have access to all benefits, except unemployment if because of the remaining duration of the permit they cannot be placed in a new job.

**Scores:**

**General score: 1**

**Turks: -1**

**Kosovars: -1**

**Italians: 1**

*- Long-term residence permits*

**31. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support**
- b. minimum housing support**
- c. family and child benefits**
- d. assistance in case of illness**
- e. pregnancy and maternity care**
- f. long-term care**

Illness insurance is compulsory for every person who resides or works in Switzerland (art 3 Lamal). Moreover having an illness insurance is a condition for receiving a work authorization (art 9 OLE). Generally people with limited economic means are entitled to a subvention. (art 65 Lamal)

Long-term permit (C) holders are treated at the same conditions as nationals. Only some specific remarks have to be made.

Access to the "AI" and AVS allowances if resident in Switzerland and at the time to benefit of the assistance he/she has or to have contributed to this insurance for at least 1 year or to sum up 10 years of stay in Switzerland.

Minimum income support is available for C permit holders but this may have consequences on the authorization of stay in Switzerland (because being in a large measure and in a permanent way at the benefice of social assistance constitute an expulsion motive art 10 al I d LSEE, art 66 al b Letr). No distinction is made between EEA and non EEA nationals.

**Scores:**

**General score: 0**

**Turks: 0**

**Kosovars: 0**

**Italians: 0**

#### 4. ANTI-DISCRIMINATION RIGHTS

##### **32. Legislation against ethnic discriminations**

A Federal commission against racism was created in 1995 following the convention against all kinds of racial discrimination that is effective since 1994. Since the 1<sup>st</sup> of January 1995 a penal anti-racism norm (art 261bis of the Swiss Penal Code) entered into force. Based on this penal norm the Federal commission against racism has inventoried 308 judgments related to this 261bis norm between 1995 and the end of 2003.

An inventory of the committed and judged offences reveals that they are mainly constituted of written aggressions (32%) and verbal aggressions (25%), finally 10% for diffusion of racist material. Only 3% are violent actions by gesture or comical expressions and 3 % for refusing a loan.

The art 261bis of the penal code only considers public acts and acts threatening social peace, in other words acts that are publicly negating the right to equality. They cover incitement to racial hatred and discrimination, as well as ideology spreading. Spreading actions or organization of actions, discrimination against a person or a group in a way that affects human dignity, refusal of delivering a service.

**Score: 1**

##### **33. Type of sanction in case of racially discriminatory hiring**

The law against racism in Switzerland foresees fines and imprisonment possibility up to 2 years. But so far, no one has been sentenced to prison, only to fines.

**Score: 0**

##### **34. Public structures dealing with ethnic discriminations**

Federal commission against racism. Created in 1995 this commission has only a consultative and study role.

**Score: 0**

#### 5. POLITICAL RIGHTS

##### **35. Right to vote in local elections**

Only a few cantons and communes have granted the right to vote to immigrants. The right to vote for immigrants is an issue in Zurich since at least 1998 when the State Council defined the guidelines for immigrants' integration. One of the objectives of these guidelines was to grant voting rights to immigrants. So far, different attempts to change the cantonal constitution have been made in order to introduce an article giving the communes the competence to grant immigrants voting rights at the communal level (facultative voting

right). But always without any success. The last attempt has been made in 2006, with an initiative asking for the facultative voting rights for immigrants at the local level. This initiative requests a change in the cantonal constitution that would allow communes to grant immigrants voting rights.

**Scores:**

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: -1**

### **36. Right to stand for local elections**

Immigrants have the right to stand for elections in only 5 cantons. The issue has not even been raised in Zurich.

**Scores:**

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: -1**

## **II – CULTURAL/GROUP RIGTHS**

### **1. CULTURAL REQUIREMENTS TO ACCESS THE COMMUNITY**

#### **37. Cultural requirements for obtaining short-term permits**

No cultural requirement for applying for a short-term permit. The person has to satisfy the conditions related to the purpose of his stay in Switzerland.

**Scores:**

**General score: 1**

**Turks: 1**

**Kosovars: 1**

**Italians: 1**

#### **38. Cultural requirements for obtaining long-term residence permits**

None.

**Scores:**

**General score: 1**

**Turks: 1**

**Kosovars: 1**

**Italians: 1**

#### **39. Cultural requirements for naturalization**

The federal law on acquisition and loss of Swiss nationality (LN) lists the requirements the candidate should meet for naturalizing. These conditions are almost all related to cultural requirements. The candidate should be integrated to the Swiss community (but the law does not specify the definition of integration) to be accustomed to the Swiss way of life and conform to the Swiss law. Implicitly the length of stay in Switzerland (12 years of residence) might also be an additional guarantee of cultural integration.

Command of German is a central requirement for naturalization in Zurich. But no formal test is required, even if it has been discussed. Knowledge of history and, culture and history is required, but then again there is no formal test, but an interview with the candidate to assess their command of German and their cultural and historical knowledge.

Cultural requirements for naturalization are rarely defined in a precise way at the local level.

**Scores:**

**General score: -1**

**Turks: -1**

**Kosovars: -1**

**Italians: -1**

## 1- LANGUAGE PROGRAMS

### **40. Host-country language programs for immigrant adults**

Since 1998 and the mission statement for integration the City of Zurich offers language programs for immigrant adults. The federal program for adult education finances most of them. A part of the city offer is co-financed by the Credit for Integration from the Confederation and the City of Zurich. An important part of the city subvention is dedicated to childcare during the language course, so that women with children can attend the courses.

**Score: 1**

### **41. Host-country language programs for immigrant children**

These programs are also available for children.

**Score:1**

## 2- SCHOOLING

### **42. Possibility of public funding for Muslim private owned schools (full-time schools)**

No. This applies to all confessional schools

**Score: 0**

### **43. (if there is a possibility) Number of public-funded Muslim schools (full-time schools)**

Not applicable.

**Score: -1**

### **44. Possibility of public funding for other minority group private-owned schools (full-time schools)**

Private schools do not get any subsidies. Some private schools can get subvention from the state in case of a program of public interest: so was the case, for example, for the Italian School that used to get subsidies for the German courses.

**Score: -1**

### **45. (if there is a possibility) Number of public-funded minority group schools (full-time schools)**

Not applicable

**Score: -1**

### **46. Cultural/language courses for pupils of minority groups inside public schools**

The City of Zurich is financing to a very small extent cultural and language courses in public schools; most of the funding comes from consulates and private foundations. These courses are integrated in the program but are not compulsory and are implemented only in few schools as they depend on the availability of competent teachers.

**Score: 0** (only partly public funded programs)

### **47. Changes on public schools' curriculum to take into account the cultural diversity of society**

As a response to a popular initiative launched in 2005 for the reintroduction of “Biblical history” in public schools the cantonal government proposed a counter project aiming at

introducing a new subject in public primary schools called "Culture and Religion". The aim of this new subject is to introduce different religions to pupils, Islam included. In 2006 the cantonal parliament approved the counter project, which will be implemented from 2007/2008 on. These classes are compulsory for all pupils, but are not religious education classes.

**Score: 0** (limited changes)

### 3- RELIGION

#### **48. Religious education in public schools**

No religious education in public schools.

**Score: 0**

#### **49. Islamic religious signs in the public sector**

There is no public regulation about religious signs in the public sector generally or about Islamic religious signs in particular. In Zurich as in other cantons, the State has so far adopted strict neutrality in terms of religious signs in the public sector.

To a question of an SVP (radical right) town councilor asking to prohibit the headscarf in public schools, the local executive council answered that there is no need for such a regulation in Zurich as teachers and schools have noticed no particular problems regarding pupils or teachers wearing a headscarf.

Protokoll des Stadtrates von Zurich 30.06 2004

**Score: 1**

#### **50. Islamic religious signs in the private sector**

As for the public sector there is no specific regulation about religious signs in the private sector. Thus, the decision is left to the employer. Nevertheless, the issue of the headscarf in the private sector has been debated in 2004, especially concerning cashiers. From the two main chain stores in Switzerland, the first one left the local management of the store decide on the policy to adopt, and it has been allowed in Zurich. The second one prohibits for all employees in the whole country.

**Score: 0**

#### **51. Islamic breaks for praying**

No public regulation regarding Islamic breaks for praying. It is left to the negotiation between employers and employees.

**Score: 0**

#### **52. Cemeteries and burial according to Islamic rite**

Until 2001 the cantonal decree on cemeteries didn't allow the creation of separate spaces in cemeteries. The canton and the City of Zurich, in a dialogue initiated by the City at the end of the 1990s, didn't reach any agreement. The most plausible envisaged solution at that time was to create private cemeteries for Muslims. But the lack of resources of Muslim associations in Zurich made it impossible. The dialogue with the canton was then re-opened and in 2001, the decree on cemeteries was modified to allow separate spaces for other religions in public cemeteries. This allowed the creation of a space for Muslims in 2004 in the City of Zurich, where burials according to Islamic rite are allowed.

**Score: 1**

#### **53. Local public budget for mosques (building and managing)**

Religious associations can be subsidized only for a project on intercultural exchange. Thus no possibility of financing infrastructures.

**Score: 0**

## 4- MEDIA

<b>54. Islamic religious programs in public and state-subsidized private broadcasting (not including cable and satellite)</b>
None
<b>Score: -1</b>
<b>55. Programs in public and state-subsidized private broadcasting (not including cable and satellite) for other minority groups or for the whole immigrant population</b>
From 1964 to 1984, the Swiss Television and the Italian television co-produced a program for Italians in Switzerland. The program was transmitted on the three regional channels of the Swiss Television. "Un'ora per voi" was a program in Italian for Italian immigrants and gave news about politics, culture, entertainment etc. about both countries. The aim of the program was to inform Italians about the host country but also to maintain the links to their home country. The program ended in 1985. There is no similar program in Switzerland for other minority groups. But the question whether the public broadcasting should produce such programs has become an issue again recently. Indeed, a member of the Swiss parliament launched a project for a similar program for Albanians (mainly Kosovars in Switzerland). The project foresees a program in Albanian that would inform Kosovars about Switzerland and their home country in co-production with a home country producer. So far, the project didn't find any funding.
None
<b>Score: -1</b>

## 5- LABOUR MARKET: GROUP RIGHTS

<b>56. Affirmative action for ethnic minorities in the private sector</b>
None
<b>Scores:</b>
<b>General score: -1</b>
<b>Turks: -1</b>
<b>Kosovars: -1</b>
<b>Italians: -1</b>
<b>57: Affirmative action for ethnic minorities in the public sector</b>
None. But one of the objectives of the new guidelines for integration is to abolish the barriers to the employment to foreigners, specifically in the public sector where a settlement permit is required. But no distinction between groups.
<b>Scores:</b>
<b>General score: -1</b>
<b>Turks: -1</b>
<b>Kosovars: -1</b>
<b>Italians: -1</b>
<b>58. Measures to further the integration of foreigners into the labour market</b>

In the mission statement for integration the local council identifies the problem of integration in the labor market of immigrants and more specifically the high unemployment rate of young immigrants and immigrants with low education levels. Different measures are implemented: integration programs for young unemployed immigrants, with a particular attention on the transition from school to the labor market and on young women, promotion of independent work.

**Score: 1**

### **III - GENERAL POS**

#### **1. CONFIGURATION OF POWERS**

##### **59. Degree of federalism and decentralization**

Switzerland is a federalist country and highly decentralized. Index of federalism: 5.0

**Score: 1**

##### **60. Decentralization at the local level: sub-local public structures (at the level of district, neighborhood) with political powers**

None. But the City Development Department is implementing its policies with neighborhood associations

**Score: -1**

##### **61. Power distribution in the city**

###### **Balance of powers between the executive and the legislative.**

The local assembly is elected by the people and is composed of 125 members. Election: proportional. Decision on naturalization of foreign-born candidates.

Stadtrat (executive) President and eight members. Election: majority rule. Collegial. Decision on naturalization of Swiss citizens and foreigners born in Switzerland.

##### **62. Electoral systems – Local level**

Proportional representation

**Score: 1**

##### **63. Party systems in the city**

Multiparty system

##### **64. Party(ies) in the city (one party/a coalition of parties)**

Coalition of parties: collegial

##### **65. Party(ies) in power – National level**

The Swiss government consists of seven members of the Federal Council. From 1959 to 2003 the government had always the same party composition that reflected the strength of the parties in the parliament, which was called the Magic Formula. The government was composed of 2 socialists, 2 Christian democrats, 2 Radicals (center right), 1 UDC (right, agrarian party with a radical right branch). In the 1990, the electoral success of the UDC (especially its radical right branch) challenged the Magic Formula. The government composition changed in 2003. The Christian Democrats, who became the fourth national party lost one seat in favor of the UDC. Thus the parties in power are: UDC (2), Socialists (2), Radicals (2) and Christian Democrat (1).

##### **66. Party(ies) in power – Local level**

The local government is also a coalition of parties (9 members), but it has not included any member of UDC from 1998 to nowadays:

1998-2002: 4 Socialists, 2 Radicals (center right), 1 Green, 1 Christian Democrat, 1 Independent (center)

2002-2006: 4 Socialists, 3 Radicals (center right), 1 Green, 1 Independent (center)

2006-2010: 4 Socialists, 3 Radicals (center right), 1 Green, 1 Christian Democrat

## 2. PARTICIPATION MECHANISMS

### 67. Referenda (Local level)

At the cantonal level: as at the federal level the referendum is binding

At the city level also. There are different types of referenda, facultative (federal legislation) and compulsory referenda (any constitutional change, international treaties). See indicator 68.

**Score: 1**

### 68. Who can initiate the referendum? (Local level)

At the cantonal level: there are different types of referendum:

- a) The popular initiative requires 10,000 signatures and can request a change in the cantonal constitution, to issue, change or abrogate a law or any decision of the cantonal parliament that can be submitted to a referendum and finally to launch an initiative directed to the federal level.
- b) The compulsory referendum for any constitutional change
- c) The facultative popular referendum for decisions by the cantonal parliament that can be submitted to a referendum. The facultative referendum requires 5000 signatures and can be initiated by any citizen, party, association, and interest group.
- d) The administrative initiative that can be initiated by cantonal or local public offices

At the local level, same type of referendum as at the cantonal level.

- a) The facultative popular referendum that can be initiated by any citizens and requires 2000 signatures
- b) The popular initiative requires 3000 signatures and can be initiated by any citizen. It can request a change in the local constitution, to issue, change or abrogate a law or any decision of the local parliament that can be submitted to a referendum.
- c) If the popular initiative does not get the 3000 signatures it can lead to a referendum as a personal initiative, under the condition that 42 members of the local parliament approves it.

**Score: 1**

### 69. Number of (consultative or binding) referenda held over the past 10 years (Local level)

	City	Canton	Federal
2005	9	7	5
2004	7	4	13
2003	7	12	11
2002	14	9	9
2001	9	5	11
2000	6	6	16
1999	10	17	10
1998	5	13	10
1997	10		5

1996		9
Source: Statistische Jahrbücher, 2003-2007, Archiv Gemeindeabstimmungen 1997-2004, <a href="http://www.stadt-zuerich.ch/abstimmungen/default.htm">http://www.stadt-zuerich.ch/abstimmungen/default.htm</a>		
The number of referenda includes compulsory and facultative referenda as well as popular initiatives.		
<b>Score: 1</b>		
<b>70. Existence and type of citizen assemblies (Local level)</b>		
None		
<b>Score: -1</b>		
<b>71. Existence and type of citizen assemblies (Local level)</b>		
None		
<b>Score: -1</b>		
<b>72. Involvement of civil society organizations (associations, foundations, interest groups...) in the definition of local policies</b>		
The City Development Department consults neighborhood associations in the definition of its policies. Especially for the rehabilitation of neighborhoods. But this consultation is informal. Moreover, the participatory approach is specific to this department, other departments do not explicitly mention involvement of civil society organizations in the definition and implementation of policies.		
<b>Score: 0</b>		
<b>73. Involvement of civil society organizations (associations, foundations, interest groups...) in the implementation of local policies</b>		
The City Development Department implements its policies in partnership with neighborhood organization.		
<b>Score: 0</b>		
<b>74. Pluralism of the participation system in the city</b>		
Pluralist system.		
<b>Score: 1</b>		
<b>75. Is there a specific department in the local council devoted to promote citizen participation?</b>		
The City Development Department is not specifically devoted to promote citizen participation, but one of the objectives of the department is the promotion of citizen participation, particularly in the development and rehabilitation of some districts.		
<b>Score: 0</b>		
<b>76. Is there a bill of rights or a similar local legislation that regulates how citizens can influence the decision-making processes in ways other than selecting their elected representatives?</b>		
Except for the possibility of referenda and initiatives, there is no specific local legislation regulating how citizens can participate. A score of 1 is given because of the possibility of referenda and initiatives with substantial effects on decision-making processes.		
<b>Score: 1</b>		
<b>77. Number of local-council-owned buildings granted to associations as meeting spaces Raw number per 1,000 inhabitants</b>		
Not available		
<b>Score: N.A.</b>		

**78. Average percentage of local budget devoted to subside associations in general (1995-2005)**

**Raw percentages**

Not available

**Score: N.A.**

**79. If there are sub-local public structures: do citizens have participation mechanisms within these structures?**

The districts in Zurich (Kreis) have no political power, they are only territorial subdivisions. Nevertheless, the City Development policies are defined and implemented at the sub-local level. The definition and the implementation of these policies are done in partnership with neighborhood associations.

**Score: -1**

**IV – SPECIFIC POS (related to immigration and ethnic relations)****80. Main responsibility for immigrants integration policy**

Local government has the responsibility for immigrants' integration politics. The Federal ordinance on immigrants' integration (13th September 2000), states that every canton has to create a structure to manage integration in the canton. The confederation finances integration projects at the local level, but the decision on projects to be financed financing is taken at the local level.

The City of Zurich created already in 1968 a first office for integration. With the beginning of the family reunion, some social actors became aware of the integration issue mainly the churches and human right organizations. The first "Commission for Assimilation Problems" was created in 1968 under the initiative of a city councilor close the Protestant Church. This Commission was the first office for integration. After many reforms it became the Promotion for Integration office which is responsible for integration policies at the local level and focuses on immigrants' integration.

**Score: 1**

**81. Public information and support services for immigrants at the local level (which inform them about their rights, the institutions to which they can address, etc.)**

The office for Promotion of Integration offers many services to immigrants. They coordinate the languages courses offer and organize integration courses (mainly language courses or help in job seeking). They propose a Welcome Desk for newcomers, consultations, information about the City services and possibilities in terms of childcare, the institutions to which they can address in case of problems.

**Score: 1**

**82. Which institution (s) has(ve) the leading role in the field of immigrants' integration?  
– Local Level**

The Promotion of Integration office is a specialized service and has the leading role in the field of integration. The service defines the priorities in the integration policy and is responsible for its implementation. It coordinates the integration policy between the different departments concerned by integration.

**83. Policies related to immigrants' integration at the local level**

The Department of the Zurich mayor together with the University of Zurich and immigrant organizations and key actors in the field of immigration defined the "Guidelines for Integration" in 1998. This document defines the guidelines for the integration policy. The Promotion of Integration office is responsible for the implementation of these policies. Main domains:

- Language, majority language courses for immigrants
- Education
- Participation in the local life. Integration of neighborhood and immigrant organizations in the definition and implementation of policies

**Score: 1****84. Is there a specific department in the local council devoted to immigrants' integration policies**

Promotion of Integration, which is a domain of the City Development Department

**Score: 1****85. Percentage of total local budget devoted to immigrants' integration policies (raw percentage)**

No indication of Budget for functioning of Department.

**Score: N.A.****86. Existence of a council/board/assembly that represents immigrants/minority groups**

The Advisory Council of Immigrants is a consultative commission for the local City council. It transmits demands from the immigrant population to the City of Zurich, promotes the dialogue between Swiss citizens and immigrants and it supports the City council and the Intercultural commission for integration on integration issues. Members of the Council are selected on the basis of a public call. Any foreign resident can apply, but no Swiss citizens. Candidates are individual candidates and are not representatives of immigrant organizations. The Mayor selects the candidates and submits the composition of the Council to the City Executive. This Council is a pilot project and will be evaluated at the end of 2007.

**Score: 1****87. Involvement of minority/immigrant organizations in the definition of local policies**

The Department for the City Development works in a multidimensional perspective, where neighborhood organizations, private institutions, enterprises, immigrant organizations are involved in the definition of policies for the city development, integration of immigrants, valorization of disadvantaged districts etc. One of the priorities of the City Council is to integrate organizations and individuals in the definition as well as in the implementation of local policies. The consultation is not formally regulated.

**Scores:****General score: 0****Turks: 0****Kosovars: 0****Italians: 0****88. Involvement of minority/immigrant organizations in the implementation of local policies**

Immigrant organizations as well as all other type of voluntary organizations can be involved in the implementation of local policies, especially in the field of the City Development Department. No difference is made between different type of associations in the involvement in the definition as well as for the implementation of local policies. In other words, no distinction is made between autochthonous and immigrant organizations. The scope of the organization (specialized in immigration issues, playing a role in immigration issues) is of no

importance. Migrant organizations are mainly involved in the sector of integration and valorization of disadvantaged districts. But these organizations are funded only on a project basis.

**Scores:**

**General score: 0**

**Turks: 0**

**Kosovars: 0**

**Italians: 0**

**89. Involvement of organizations specialized in immigration/integration issues in the definition of local policies**

See above

**Score: 0**

**90. Involvement of organizations specialized in immigration/integration issues in the implementation of local policies**

See above

**Score: 0**

**91. Involvement of organizations playing a relevant role for immigrants' integration in the definition of local policies**

See above

**Score: 0**

**92. Involvement of organizations playing a relevant role for immigrants' integration in the implementation of local policies**

See above

**Score: 0**

**93. Involvement of the local power in the funding of minority/immigrants organizations**

There is no specific budget for minority/immigrants organizations. The Office for the Promotion of Integration has an annual budget to subsidize any private company or association for projects aiming at favoring the integration at the City level. Thus subsidies are only granted to associations on a project basis.

**Score: 0**

**94. Requirements to be able to apply for subsidies**

The Office for Promotion of Integration grants subsidies (Integrationskredit) to any voluntary organizations (minority/immigrants, autochthonous) and private companies for integration projects. The subsidies are granted for private initiatives promoting integration in disadvantaged districts. The projects' emphasis should be on integration and valorization of disadvantaged districts and/or integration of immigrants. Projects should be led and implemented by multicultural teams and put different population groups in contact and also, involve Swiss citizens. Formal requirements are the following:

- The project has to be political and confessional neutral
- The project is related to Zurich
- The project should be publicly oriented but can be oriented towards specific immigrant groups
- The application has to include a financial budget
- Projects will be financed by only one Department
- The project will be co-financed by contributions of the organization and/or with subsidies from the canton or the confederation.
- The project is a non-profit project

<ul style="list-style-type: none"> <li>- The sponsorship of a subsidized project has to allow inspection of the progress of the project at any time so as to be accompanied for guaranteeing the quality of the project</li> <li>- The project will be published on the Internet (website of promotion of integration office)</li> </ul>
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**Score: 1**

**95. Party arrangements to favour the presence of persons with ethnic minority background in the leadership of the party – Local level**

In 1998 the Regional Socialist party (political parties are also highly decentralized and the regional and local chapters have a high autonomy in the definition of objectives and themes) founded within the party the SP-Migration group composed essentially by second-generation immigrants. The group had an autonomous list at the 2003 federal elections under the name “Second@spplus”. The objective of the foundation of the group was to give more visibility to second generation immigrants in the local and Swiss political life as well as to allow immigrants to take positions on all kind of political issues, that is not only on immigration issues. But the main themes of their campaign were the change of the naturalization procedure as well as political rights for resident immigrants. They were candidates at the local elections in 2006 and will candidate to the federal elections.

**Scores:**

**General score: 1**

**Turks: 1**

**Kosovars: 1**

**Italians: 1**

**96. Party arrangements to favour the presence of persons with ethnic minority background in the party (rank-and-file members)– Local level**

The only arrangements are those of the SP-Migration group and it is open to all kind of members.

**Scores:**

**General score: 1**

**Turks: 1**

**Kosovars: 1**

**Italians: 1**

**97. Share of radical right and anti-immigrant parties in the electoral vote – National level: general elections**

**Mean over the 10 past years (raw percentage)**

National council, national results	1995	1999	2003	2007
SVP (radical right)	14.9	22.5	26.7	
SD (radical right)	3.1	1.8	1.0	
FPS (radical right)	4.0	0.9	0.2	
Lega (radical right)	0.9	0.9	0.4	

Source: OFS, Statistik der Nationalratswahlen

Extreme-right average over past 10 years: 25.8

**Score:-1**

**98. Share of radical right and anti-immigrant parties in the electoral vote – Local level: general elections**

**Mean over the 10 past years (raw percentage)**

National council, Zurich (canton) results				
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	1995	1999	2003	2007
SVP (radical right)	25.5	32.5	33.4	
SD (radical right)	3.3	1.5	0.9	
FPS (radical right)	3.5	0.8	0.1	
Lega (radical right)	-	-	-	

Source: OFS, Statistik der Nationalratswahlen

Extreme-right average over past 10 years: 33.8

**Score:-1**

**99. Share of radical right and anti-immigrant parties in the electoral vote – Local elections (city council)**

**Mean over the 10 past years (raw percentage)**

City council	1994	1998	2002	2006
SD (radical right)	3.4	3.4	2.1	2.6
SVP (radical right)	14.2	17.7	18.5	19.1

Source: Statistisches Jahrbuch 2007, Statistik Stadt Zürich and Stadtskanzlei (2006)

Extreme-right average over past 10 years: 20.25

**Score:-1**

## **GENERAL CONCLUDING COMMENTS**

In this report we have given an overview of the POS in Switzerland and in Zurich and the indicators suggest a rather closed opportunity structure for immigrants.

The access to the community at the individual level is rather closed. The conditions of entry and stay on the Swiss territory are very restrictive. Nevertheless, EEA nationals and non-EEA nationals face totally different conditions. EEA nationals are granted an open access to the country and to the labor market. Furthermore, with the progressive implementation of the agreement of free movement of people between EU countries and Switzerland, EU citizens will be granted equal access to the labor market as Swiss citizens. By contrast, only a limited number of non-EEA nationals are admitted. But once an immigrant is admitted and is granted a stay permit the access to settlement permits is almost automatic, depending on the length of stay and on economic resources. The distinction between EEA and non-EEA nationals does not apply to settlement permits.

Concerning cultural group rights, Switzerland and Zurich do not follow a multiculturalist approach. The city is more aware about the issue of multiculturalism than other cantons in Switzerland and the federal authorities. The City of Zurich created its first office dealing exclusively with integration of immigrants in the 1960's, even if at that time the objective was rather assimilation than integration. Although objectives of the local immigration policy have changed, it is still oriented towards a more assimilationist approach. The City takes progressively into account multiculturalism by offering courses on religions, including Islam, in public schools. Nevertheless, immigrants are still expected to adapt to the dominant culture.

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## **COUNTRY AND CITY**

United Kingdom, North London: Camden, Islington, Hackney, Haringey<sup>106</sup>

### **INTRODUCTION**

Britain is a country of post-colonial migration. Mass migration occurred in the post-war period primarily between the 1950s and early 1970s. Rights of individuals from former colonies and commonwealth countries to permanent residence and citizenship, as well as certain political rights (e.g. voting), were initially granted under the auspices of the Commonwealth. As a result the largest minority groups in Britain originate from the Indian subcontinent and the Caribbean. At present almost half, in some cases more, of the members of these communities are British-born and in accordance with *jus soli* acquired British citizenship automatically at and by birth.

Since the late 1960s immigration legislation has progressively been tightened. The majority of international arrivals are British or European Economic Area nationals. The primary sources of in-migration (from outside the EEA) are students, work permit holders and family accompanying or joining work-permit holders or settled persons. In comparison, a relatively small proportion of new arrivals apply for entry to seek asylum (Home Office 2005). Citizens of the USA are the largest single nationality of non-EEA nationals (33 per cent in 2005), followed by Australians and Indians (each  $\leq$ 10 per cent). Contemporary debates concerning immigration and diversity have led to concerns regarding sizeable communities – particularly of South Asians – not being integrated within British society due to supposedly ‘multicultural policies’. This has led to a heightened emphasis upon English language learning and demonstrating knowledge of ‘life in the UK’ as a formal component of applications for citizenship (since 2005) and applications for permanent residence (from April 2007).

In addition, concerns regarding national security have heightened in recent years. The Immigration, Asylum and Nationality Bill (IAN 2005) strengthens the Secretary of State’s capacity to revoke a dual-national’s British citizenship should it be deemed ‘conducive to the public good’. This is part of a package of measures of measures which also includes the Home Office 5-year strategy: *Controlling our Borders: Making Migration Work for Britain*. This makes family reunion for elderly dependent relatives more difficult and introduces a more coherent four-tier points system of work permits.

In general, the anti-discrimination legislation on the grounds of race is relatively well established. The Race Relations Act (1976) forms the basis of existing legislation prohibiting discrimination on the grounds of ethnicity or race in the spheres of employment, education and housing and in the provision of goods and services. This legislation, however, did not prohibit discrimination on the grounds of religion, thus Muslims – who do not constitute an ‘ethnic group’ (because they do not necessarily have shared history, geographical or ethnic origins – unlike Indians, Sikhs or Jews, for example) were unprotected. However, the recent Equality Act (2006) prohibits discrimination on the grounds of religion, belief and sexual orientation and strengthens existing legislation with respect to sexist discrimination and disability.

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<sup>106</sup> This report has been prepared by Ranji Devadason, a researcher in the British LOCALMULTIDEM team.

As each of the 3 groups selected (African Caribbean, Bangladeshi, Indian) originates from former British colonies, their rights with respect to initial immigration (for arrivals prior to the 1962 Commonwealth Immigration Act) were extensive. Certain political rights are automatically granted to Commonwealth citizens which are not automatically accorded to EU nationals (e.g. the right to vote in local elections). The rights regarding family reunion (particularly, spouses) are particularly relevant to Bangladeshi and Indian groups as almost half of recent admissions of husbands or wives are from the Indian subcontinent. Certain immigration rules regarding family reunion are particularly directed at South Asians due to concerns regarding forced marriage. However, in general, the application of existing legislation, rights and opportunity structures cited in this report is the same for each group.

## **INSTITUTIONAL POS INDICATORS**

### **I – INDIVIDUAL RIGHTS**

#### **1. ACCESS TO THE COMMUNITY**

Individuals applying to live in the UK (from outside the EU) on a short term basis must acquire entry clearance and apply for a visa at a British high commission or embassy overseas. There are three main types of visa: a visitors visa; a student visa and visas linked with work permits. A person seeking leave to enter the United Kingdom on a visitors' visa may be admitted for a period not exceeding 6 months, subject to a condition prohibiting employment. The latter two types of visa require that the applicant has already secured a place at an educational establishment in the UK or secured employment. Student visas are granted for the duration of a formal course of study (usually  $\leq 3$  years, although extensions may be granted). The key distinction for work permit holders is between highly skilled migrants for whom longer term entry ( $\geq 2$  years) is possible with employment, whereas low skilled migrants (e.g. seasonal agricultural workers, au pairs, hospitality and factory workers) rights to remain are more restrictive ( $\leq 2$  years), and rights to extend stay more limited. A new category of 'working holidaymakers' (for Commonwealth citizens, outside EEA) has recently been created whereby intention to leave the country by the end of 2 years, and funds to do so, must be demonstrated; within this scheme employment can only be undertaken for up to 12 months. The rules for work permits are extremely complex as there are number of different schemes depending on the applicants' sector of employment and demand (see 28). Family members entering to join work permit holders or students can be granted leave to remain for as long as the main permit holder, whereas husbands, wives, partners and children entering to join permanently settled persons (who have been granted 'indefinite leave to remain') will be granted initial entry for 2 years, provided that they will be dependent on the settled person (without recourse to public funds) and a number of additional criteria are fulfilled (see 22), before they can apply for permanent residence in their own right.

a) **Short-term permits**

**1. Automatic acquisition of the permit if mother or father of a national minor child**

Limited leave to remain will be granted for 12 months, provided they fulfil a number of criteria including: being a main carer and involved in the upbringing of the child, that the parent with whom the child permanently resides is resident in the UK, being partners of the parent who is legally resident in the UK and that they can be accommodated without recourse to public funds.

Source: The Immigration and Nationality Directorate's Immigration Rules

<http://www.ind.homeoffice.gov.uk/lawandpolicy/immigrationrules/part7>

**Scores:**

**General score: -1**

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian: -1**

**2. Automatic acquisition of the permit if marriage with a national**

Spouses of British citizens or permanent residents are automatically granted 'marriage visas' and provided that you are still married and living together at the end of two years in the UK permanent residence (properly known as indefinite leave to remain) will usually be granted. If you have been together for four years or more outside the UK you will be granted indefinite leave to remain (permanent residence) in the UK without having to live in the UK for two years.

Source: <http://www.workpermit.com/uk/permanent.htm>

**Scores:**

**General score: 1**

**African Caribbean: 1**

**Bangladeshi: 1**

**Indian: 1**

**3. Economic resources requirement**

Entrants must demonstrate that they, or their sponsors, have sufficient funds to support them without recourse to public funds. This does not entail a fixed amount, the application would contain evidence of income (e.g. bank statements, pay slips, legally signed letters of support) and it is dependent on the judgement of the immigration officer whether the amount is sufficient. Certain short-term visas require that the applicant have enough money to pay for their return to country of origin. In addition, couples must demonstrate that they intend to live together permanently in order to obtain a spouse visa. Public funds cover various benefits paid by the Government if you are currently looking for work, if you are on a low income and if you are in various other situations. In addition, they must demonstrate that they have suitable accommodation.

Source: <http://www.workpermit.com/uk/permanent.htm>

**Scores:**

**General score: -1**

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian: -1**

**4. Link between work regime and permit regime**

Individual applicants (not spouses or dependents) must apply for work permits and visas

simultaneously. This system is likely to be simplified and combined into one system in the future. Employers – in many sectors – must demonstrate that they cannot fulfil their post in the UK or EU and demonstrate that they have advertised the post in the EU (see 28).

**Scores:**

**General score: -1**

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian: -1**

**5. Grounds for withdrawal:**

- a. proven fraud in the acquisition of permit**
- b. sentence for serious crimes**
- c. actual and serious threat to public policy or national security**
- d. sufficient level of resources**

A number of criteria, the main ones are listed here: (1) the making of false representations or the failure to disclose any material fact for the purpose of obtaining leave to enter or a previous variation of leave; (2) failure to comply with any conditions attached to the grant of leave to enter or remain; (3) failure by the person concerned to maintain or accommodate himself and any dependants without recourse to public funds; (4) the undesirability of permitting the person concerned to remain in the United Kingdom in the light of his character, conduct or associations or the fact that he represents a threat to national security.

Source: Source: The Immigration and Nationality Directorate's Immigration Rules  
<http://www.ind.homeoffice.gov.uk/lawandpolicy/immigrationrules/part9>

**Scores:**

**General score: -1**

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian: -1**

**b) Long-term permits**

**6. Automatic acquisition of the permit if mother or father of a national minor child**

No, (see 1).

**Scores:**

**General score: -1**

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian: -1**

**7. Acquisition of the permit if marriage with a national**

Spouses of British citizens or permanent residents are automatically granted 'marriage visas' and provided that you are still married, and living together at the end of two years in the UK, permanent residence (properly known as 'indefinite leave to remain', ILR) will usually be granted. If you have been together for four years or more outside the UK you will be granted indefinite leave to remain without having to live in the UK for two years.

Source: <http://www.workpermit.com/uk/permanent.htm>

**Scores:**

**General score: 0**

**African Caribbean: 0**

**Bangladeshi: 0**

**Indian: 0**

#### **8. Required minimum time of habitual residence**

General Rule: 5 years continual residence (2 years if married with a national)

Exception: or the applicant must have been working for the UK government overseas ('Crown Service').

The requirement of the 5 year period is only considered to be fulfilled if the applicant was not subject to any time under the immigrations laws and at no time during the 5 year period was in breach of immigration laws. In addition the applicant must not have been outside the UK for more than 450 days within the 5 years or 90 days in the preceding 12 months.

**Scores:**

**General score: 0**

**African Caribbean: 0**

**Bangladeshi: 0**

**Indian: 0**

#### **9. Economic resources requirement**

Work permit holders and highly skilled migrants will be granted permanent residence (indefinite leave to remain) after residing in the UK for 5 years, provided that they have not been unemployed during this period. Periods of unemployment will not be counted within the 5 years.

Those granted residence on the basis of marriage or family reunion are classed as 'dependents' and will not be granted ILR initially be granted in their own right, evidence of economic resources to support them without recourse to public funds are required. This does not entail a fixed amount, but as much as possible strengthens the applicant's case; the application would contain evidence of income (e.g. bank statements, pay slips, legally signed letters of support), employment (in the case of work permit holders) and bills (such as rent, and sufficient income to pay bills on time). The applicant's fixed address (accomodation) is required on the application form, although this does not need to be a permanent residence.

**Scores:**

**General score: -1**

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian: -1**

#### **10. Percentage of given permits over the total number of applications- National level**

National figures (percentages out of total applications in 2005):

Percentage granted (permanent residence) indefinite leave to remain (out of total number of applications) = 93.5%

Sources: Home Office (2006) Control of Immigration Statistics 2005. (see table 5.6)

<http://www.homeoffice.gov.uk/rds/immigration1.html> ; Migration Policy Institute: <http://www.migrationinformation.org/datahub/countrydata/data.cfm>

**Scores:**

**General score: 1**

**African Caribbean: N.A.**

<b>Bangladeshi: N.A.</b>
<b>Indian: N.A.</b>
<b>11. Grounds for withdrawal:</b>
<ul style="list-style-type: none"> <li><b>a. proven fraud in the acquisition of the permit</b></li> <li><b>b. sentence for serious crimes</b></li> <li><b>c. actual and serious threat to public policy or national security</b></li> <li><b>d. sufficient level of resources</b></li> </ul>
If leave to remain was obtained fraudulently. If they were deemed a threat to the national security by the Home Secretary. In addition, If they left the country for more than 2 years, the applicant may need to reapply for indefinite leave to remain. Once granted, having insufficient resources is not a grounds for withdrawal, the resident is fully entitled to recourse to public funds and services etc.
<b>Scores:</b>
<b>General score: 0</b>
<b>African Caribbean: 0</b>
<b>Bangladeshi: 0</b>
<b>Indian: 0</b>
<b>12. Expulsion precluded</b>
<ul style="list-style-type: none"> <li><b>a. after 20 years of residence as a long-term residence permit holder</b></li> <li><b>b. in case of minors</b></li> <li><b>c. residents born in the host country or admitted before they were 10, once they have reached the age of 18</b></li> </ul>
Yes, except in cases involving serious criminal activity or presenting a threat to the national security.
<b>Scores:</b>
<b>General score: 0</b>
<b>African Caribbean: 0</b>
<b>Bangladeshi: 0</b>
<b>Indian: 0</b>
<b>c) <u>Access to nationality</u></b>
<b>13. Eligibility for second and third generation</b>
Under the principal of <i>jus soli</i> the child is automatically a British citizen at birth, if one of the child's parents is a British citizen or legally resident at the time of the child's birth.
<b>Scores:</b>
<b>General score: 1</b>
<b>African Caribbean: 1</b>
<b>Bangladeshi: 1</b>
<b>Indian: 1</b>
<b>14. Marriage with a national</b>
General Rule: 2 years continual residence
Subject to same conditions of other applicants, 2 years is analogous to 5 years (see below, 15).
<b>Scores:</b>
<b>General score: 1</b>
<b>African Caribbean: 1</b>
<b>Bangladeshi: 1</b>
<b>Indian: 1</b>

## **15. Require minimum time of habitual residence**

General Rule: 5 years continual residence

Exception: or the applicant must have been working for the UK government overseas ('Crown Service').

The requirement of the 5 year period is only considered to be fulfilled if the applicant was not subject to any time under the immigration laws and at no time during the 5 year period was in breach of immigration laws. In addition the applicant must not have been outside the UK for more than 450 days within the 5 years or 90 days in the preceding 12 months.

**Scores:**

**General score: 1**

**African Caribbean: 1**

**Bangladeshi: 1**

**Indian: 1**

## **16. Economic resources requirement for naturalization (first generation immigrants)**

There are no stipulations regarding dependence on welfare or unemployment.

**Scores:**

**General score: 1**

**African Caribbean: 1**

**Bangladeshi: 1**

**Indian: 1**

## **17. Percentages of approved naturalizations over the total number of applications – National level**

161 780 persons were granted British citizenship in 2005 of 217,475 applications, 74 per cent approval rate (nationality breakdown not available).

Sources:

Freelove Mensah, J. (2006) 'Persons Granted British Citizenship United Kingdom, 2005'. Home Office Statistical Bulletin 23, May 2006 ; Migration Policy Institute: <http://www.migrationinformation.org/datahub/countrydata/data.cfm>

**Scores:**

**General score: 0**

**African Caribbean: N.A.**

**Bangladeshi: N.A.**

**Indian: N.A.**

## **18. Grounds for withdrawing status**

**a. proven fraud in the acquisition of citizenship**

**b. actual and serious threat to public policy or national security**

The main grounds for withdrawing status are if the citizen did not comply with residence requirements, or fraudulently obtained their citizenship. However, the Immigration, Asylum and Nationality Bill (IAN 2005) strengthens the Secretary of State's capacity to revoke a dual-national's British citizenship should it be deemed 'conducive to the public good' (Clause 53[2]). This extends earlier legislation which specified that the person had done something which was 'seriously prejudicial to the vital interests of the UK'. This extension of the powers of the Secretary of State has been criticised by the Commission for Racial Equality for creating grades of citizens, and potentially being applied to dual-nationals who have never resided in the country of their other nationality.

Source:

<http://www.cre.gov.uk/Default.aspx.LocID-0hgnew0bm.RefLocID-0hg00900f006.Lang-EN.htm>

**Scores:****General score: 0****African Caribbean: 0****Bangladeshi: 0****Indian: 0**

## 2. FAMILY REUNION

**19. Eligibility for legal residents**

In principle, yes. The immigration rules state that the husband, wife or fiancé(e) of a person who is permanently settled in the UK may be given entry clearance by an officer at the British high commission or embassy abroad to come and join his or her partner provided the officer is satisfied that: (a) the couple have met each other (aimed at communities where arranged marriage is common); (b) the couple intend to live together as man and wife (aimed against marriages of convenience); (c) there will be adequate accommodation for the couple to live together without recourse to public funds. The partner will be granted permission to enter the UK and after 1 year, they should apply to the Home Office for permission to stay permanently with evidence to prove they have been living together (joint bank statements, official letters etc.)

Husbands, wives or partners and children of work permit holders or residents on student visas will be granted entry for a period not exceeding that of the main permit holder.

**Scores:****General score: 1****African Caribbean: 1****Bangladeshi: 1****Indian: 1****20. Economic Resources requirement**

The 'sponsor' must be able to prove that they will be able to adequately maintain and accommodate them – as above – 'without recourse to public funds'. This means that residents may not be able to bring relatives if they are themselves dependent on social security.

**Scores:****General score: -1****African Caribbean: -1****Bangladeshi: -1****Indian: -1****21. Duration of validity of permit**

Initial permission to enter the UK will be granted for 1 year in the case of spouses and children and 6 months in the case of fiancé(e)s, parents, grand-parents and other dependent 'close relatives'. In this period an application for permanent residence can be made. If the sponsor does not have ILR status, his dependents' permits will be no longer than the period he is granted leave to remain.

**Scores:****General score: -1****African Caribbean: -1****Bangladeshi: -1****Indian: -1****22. Grounds for withdrawing the status****a. Public policy or security major threat****b. Proven fraud in the acquisition of permit (inexistent relationship or misleading**

<p>information).</p> <p><b>c. Break-up of family relationship (before three years)</b></p>
<p>The sponsor is unable to maintain or accommodate their spouse or dependent parents or grandparents. In the case of elderly relatives, they must be 65+ and prove that they are wholly dependent on the sponsor, and there is no one who can support them in the country of origin. Other relatives who are under 65 (including adult sons and daughters, brothers, sisters, parents, uncles, aunts) must show they live alone outside the UK 'in the most exceptional compassionate circumstance'. This condition is very hard to satisfy and help from MPs or other advisors may be required.</p>
<p><b>Scores:</b></p> <p><b>General score: -1</b></p> <p><b>African Caribbean: -1</b></p> <p><b>Bangladeshi: -1</b></p> <p><b>Indian: -1</b></p>
<p><b>23. Right to autonomous residence permit for partners and children reaching age of majority.</b></p>
<p>After 1 year an application for permanent residence can be made by partners although they should sign a declaration that they are still living together and intend to stay together permanently. In the case of children (under 18) – initially granted certificates of entry or visas for 6 months – can apply to stay within this period, and will be granted permanent residence if their parents are allowed to stay permanently, but if their parent has only been granted the right to stay for 1 year they will be granted the same right and need to apply separately for permanent permission to stay. After 2 years partners or children (reaching 18) can apply for residence in their own right.</p>
<p><b>Scores: (for both partners and children)</b></p> <p><b>General score: 1</b></p> <p><b>African Caribbean: 1</b></p> <p><b>Bangladeshi: 1</b></p> <p><b>Indian: 1</b></p>
<p><b>24. Percentages of entrances in the territory through family reunion over the total number of applications – National level</b></p>
<p>The total number of applications is not available.</p>
<p><b>Scores: NA</b></p>

### 3. SOCIAL AND ECONOMIC RIGHTS

- a) **Labour market access**
  - *Short-term permits*

<p><b>25. Access to employment</b></p>
<p>A number of complex criteria govern access to employment on a temporary basis depending on the type of employment. People who are granted certificates of entry or visas for 6 months as visitors are not entitled to work. Applicants for work permits must undertake a separate application process demonstrating their fulfilment of a number of criteria. Until recently a managed migration scheme for workers operated on a two-tier basis: low skilled workers were dealt with under the Sector Based Scheme (SBS), which specified quotas according to country of origin and sector, whilst a highly skilled workers points system was introduced (Highly Skilled Migrant Programme, HSMP). Low-skilled</p>

workers are granted entitlements to remain on the basis that they will return, for example the seasonal agricultural workers scheme (SAWS) entitles workers to stay for a period of 5 weeks to 12 months. In other areas, where there are skills shortages – e.g. hospitality and food processing – enables employers (having unsuccessfully advertised in the UK and Europe) to apply for permits for employees. This scheme has been described as ‘a mess from beginning to end’ (Immigration Advisory Service). The scheme’s restrictions on application forms from one country to 20 per cent of the total quota has particularly affected the Bangladeshi restaurant trade; the Bangladeshi limit for applications was reached within 3 weeks in 2004. Highly skilled workers in shortage occupations (doctors, engineers, nurses, teachers, actuaries and veterinary surgeons) are not subject to the same temporary restrictions and are entitled to apply to extend their stay.

The Immigration, Asylum and Nationality bill (IAN 2005) is part of a package of measures which also includes the Home Office 5-year strategy: ‘Controlling our Borders: Making Migration Work for Britain’. This aims to simplify the complexities of the previous system this into a single points system with 4 tiers depending on the type of work and skills shortages. It also involves the introduction of repeat checks and civic penalties for employers who employ migrants, thus prompting criticism that it will lead to stigmatisation of ethnic minorities and migrant workers and ‘risk-averse’ reactions by employers (CBI briefing on IAN bill, 5 July 2005, cited in CRE 2006)

Other legislation relevant to the employment of short-term immigrants (as well as settled minorities) is the Race Relations Amendment Act (2000). Public authorities are encouraged to promote equality and cohesion and may seek to employ, or target, particular minority groups if their workforce does not reflect the population (see 60). In addition, major public sector employers, such as the health service and schools, are known to actively recruit overseas to redress local shortages. There are no rules with respect to holding public authority, this would be a breach of race relations legislation. Race Relations legislation (since RRA 1976) prohibits any discrimination on the grounds of race, ethnic group or nationality, English law does not distinguish between the rights of British minorities (with citizenship) and foreign nationals (work permit holders) in this respect.

In general, since permits and quotas are required for short-term immigrants to take public/private sector employment, their labour market access is restricted compared to British residents/citizens.

Sources:

Commission for Racial Equality (2006) [CRE briefing on IAN bill for Third Reading in House of Lords, 14 March 2006;](#)  
[http://www.cre.gov.uk/downloads/ian\\_bill\\_hol\\_thirdreading.pdf](http://www.cre.gov.uk/downloads/ian_bill_hol_thirdreading.pdf)

Ensor and Shah (2005) ‘UK report’ in Niesson *et al* (Eds.) [Current Immigration Debates in Europe: A Publication of the European Dialogue](#)

**Scores:**

**General score: -1**

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian: -1**

**26. Termination of a foreigner’s work contract is a reason for revoking or refusing to renew his/her permit to stay**

Yes, except in the case of certain highly skilled migrants for whom the right to remain may not be dependent on a specific contract. Applications should be made for work-permit extensions within the period by employers for permission to stay to be renewed/extended. In some cases, if the work contract is terminated, the foreigner is

required to return to their country of origin and re-apply for right of re-entry.

**Scores:**

**General score: -1 (for most workers, 1 for certain highly skilled migrants)**

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian: -1**

*- Long-term residence (duration of validity:  $\geq 5$  years)*

#### **27. Access to employment**

Permanent residence (indefinite leave to remain) can be applied for having been on a work permit for a continuous period of 4 years and 11 months. Once permanent residence has been granted, there are no longer any immigration related restrictions on the work or business you may do in the UK, and no time limits on your stay in the UK.

Source: <http://www.workpermit.com/uk/permanent.htm>

**Scores:**

**General score: 1**

**African Caribbean: 1**

**Bangladeshi: 1**

**Indian: 1**

#### **28. Termination of a foreigner's work contract is a reason for revoking or refusing to renew his/her permit to stay**

No.

**Scores:**

**General score: 1**

**African Caribbean: 1**

**Bangladeshi: 1**

**Indian: 1**

#### **b) Labour market access**

*- Illegal immigrants*

#### **29. Access to social security, social assistance and healthcare for illegal immigrants**

Asylum seekers are entitled to health care and other social assistant benefits, illegal immigrants – who are not being dealt with under the immigration system – will be able to access health care services but not social security.

**Scores:**

**General score: 0**

**African Caribbean: 0**

**Bangladeshi: 0**

**Indian: 0**

*- Short-term permits*

#### **30. Access to social security, social assistance and healthcare for non-nationals**

**a. minimum income support**

**b. minimum housing support**

- c. family and child benefits
- d. assistance in case of illness
- e. pregnancy and maternity care
- f. long-term care

Access to healthcare, but not social security or assistance. Visas with work permits and student visas are granted on the understanding that the applicant is self-sufficient, whilst family reunion permits would only be granted on the basis that the applicant is dependent upon their family.

**Scores:**

**General score: -1**

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian: -1**

*- Long-term residence permits*

**31. Access to social security, social assistance and healthcare for non-nationals**

- a. minimum income support
- b. minimum housing support
- c. family and child benefits
- d. assistance in case of illness
- e. pregnancy and maternity care
- f. long-term care

There is no distinction once indefinite leave to remain has been granted. Prior to this, in the case of family reunion, proof is required that 'public funds' in terms of social assistance are not being drawn on however.

**Scores:**

**General score: 1**

**African Caribbean: 1**

**Bangladeshi: 1**

**Indian: 1**

#### **4. ANTI-DISCRIMINATION RIGHTS**

**32. Legislation against ethnic discriminations: types of actions**

Since the Race Relations Act 1976 it has been unlawful to discriminate against a person, directly or indirectly, on racial grounds in the field of employment, education, housing, and training and in the provision of goods or services. The 1976 Act has subsequently been amended (2000; 2003) to cover indirect discrimination.

Incitement to racial hatred was criminalised in the 1965 Race Relations Act, strengthened in the Public Order Acts 1968 and 1986. This however meant certain ethno-religious minorities, Sikhs and Jews, were protected whilst Muslims who do not count collectively as an 'ethnic group' under English law do not. This situation was amended after several attempts to get legislation through parliament in the Incitement to Religious and Racial Hatred Act 2006. This Act makes it an offence to use words, behaviour, or display written material that is threatening, abusive or insulting with the intention or likely effect that hatred will be stirred up against a group of people targeted because of their religious beliefs or lack of religious beliefs.

**Score: 1**

### **33. Types of sanctions in case of racially discriminatory hiring**

It will result in disciplinary (not criminal) sanctions, this may include termination of employment.

Source: <http://www.cre.gov.uk/gdpract/employmentcode/appendix2.html>

**Score: -1**

### **34. Public structures dealing with ethnic discriminations**

The Commission for Racial Equality (CRE) has had statutory powers since the 1976 Race Relations Act to:

- Advise and assist people about racial discrimination, harrassment or abuse.
- Conduct formal investigations of companies and organisations where there is evidence of the possible discrimination; if the investigation does find discrimination, the CRE can oblige the organisation to change the way it operates.
- take legal action against racially discriminatory advertisements, and against organisations that attempt to pressurise or instruct others to discriminate — such as employers instructing employment agencies not to send them applicants from ethnic minorities, or companies instructing their workers to discriminate in the way they provide goods or services.
- assist individuals to take judicial review action in order to challenge decisions made by public bodies, including their compliance to the general duty to promote race equality.

The statutory powers of the CRE are to be conferred to the Commission for Equality and Human Rights (CEHR). This will have overall responsibility in the UK for promoting equality and enforcing anti-discrimination laws on all of the grounds mentioned in Article 13 of the Treaty Amsterdam, as well as promoting (but not enforcing) the narrow provisions of the Human Rights Act and international human rights conventions. The CEHR will bring together the expertise and resources to promote equality and tackle discrimination in relation to gender, gender reassignment, disability, sexual orientation, religion or belief, age, race and promote human rights from October 2007. Of specific relevance to ethno-religious minorities is the fact that the new body will have statutory powers to tackle discrimination on the grounds of religion – not just race – so Muslims will be afforded the same protections under English Law that Sikhs and Jews already have, and to tackle multiple discrimination.

Sources:

CEHR (2007) <http://www.cehr.org.uk/content/overview.rhtm>

CRE (2007) <http://www.cre.gov.uk/about/legalpowers.html>

Meer, N and Modood, T. (2006) EMILIE preliminary report on the migration situation in the UK: Immigration in Britain: Past Developments and Present Challenges.

**Score: 1**

## **5. POLITICAL RIGHTS**

### **35. Right to vote in local elections**

Almost everyone over 18 has the right to vote in local elections, provided that you are:

- a British citizen, or
- a citizen of another Commonwealth country, or
- a citizen of the Republic of Ireland, or
- for certain elections, a citizen of another European Union country.\*

However, permanent residents who are not citizens of the above states do not automatically confer the right to vote in British elections.

\* In the European Union, citizens of all member states became European citizens in 1993 by the Maastricht Treaty, and as such they have the right to vote in European Parliamentary elections.

**Scores:**

**General score:** 1 (the largest minority groups in Britain originate from the Commonwealth)

**African Caribbean:** 1

**Bangladeshi:** 1

**Indian:** 1

**36. Right to stand for local elections**

Yes for 3 selected groups – not necessarily for other migrants – same conditions apply as above.

**Scores:**

**General score:** 1 (the largest minority groups in Britain originate from the Commonwealth)

**African Caribbean:** 1

**Bangladeshi:** 1

**Indian:** 1

## **II- CULTURAL/GROUPS RIGHTS**

### **1. CULTURAL REQUIREMENTS TO ACCESS THE COMMUNITY**

**37. Cultural requirements for obtaining short-term permits**

None.

**Scores:**

**General score:** 1

**African Caribbean:** 1

**Bangladeshi:** 1

**Indian:** 1

**38. Cultural requirements for obtaining long-term residence permits (>5years)**

As of 2 April 2007, the government is extending the requirement of the 'Life in the UK' naturalization test to applicants for permanent residence.

It is hoped that this will encourage people to learn the English language and to find out about UK structures, laws, democratic processes and traditions at the earliest opportunity

Source:

[http://www.workpermit.com/news/2006\\_12\\_07/uk/new\\_rules\\_for\\_indefinite\\_stay.htm](http://www.workpermit.com/news/2006_12_07/uk/new_rules_for_indefinite_stay.htm)

**Scores:**

**General score:** -1

**African Caribbean:** -1

**Bangladeshi:** -1

**Indian:** -1

**39. Cultural requirements for naturalization (first generation immigrants)**

Since 1 November 2005 a requirement was introduced for applicants to pass a 'knowledge of life in the UK' naturalisation test, in addition to demonstrating their English language ability. If the applicants English is strong, they can take the test. If not the applicant must attend combined English language (ESOL) and citizenship classes instead. ESOL and

citizenship classes help to improve their English and learn more about life in the UK. Several sources exist to help applicants prepare for the 'Life in the UK' test:

- <http://www.lifeintheuktest.gov.uk>
- Life in the United Kingdom handbook a journey to citizenship
- [http://www.workpermit.com/uk/naturalisation/life\\_in\\_the\\_uk/quiz.htm](http://www.workpermit.com/uk/naturalisation/life_in_the_uk/quiz.htm)

The test includes questions about the demography of the UK, where different languages are used in the UK (e.g. Gaelic, Welsh), the political process and the European Union, as well as aspects of popular culture such as sport and festivals.

Source: Immigration and Nationality Directorate (IND)

<http://www.ind.homeoffice.gov.uk/applying/nationality/knowledgeoflifeintheuk>

**Scores:**

**General score: -1**

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian: -1**

## 2. LANGUAGE PROGRAMS

### 40. Host-country language programs for immigrant adults

From 2007, migrants applying for permanent residence (Indefinite Leave to Remain) or naturalization (since 2005) must either pass an ESOL (English for speakers of other languages) entry 3 test or attend an ESOL course at a local college which includes information about citizenship and life in the UK. These courses are government funded, although teacher shortages and the lack of ESOL courses for immigrants with higher education has led to criticisms in recent years.

Source:

[http://www.workpermit.com/news/2006\\_12\\_07/uk/new\\_rules\\_for\\_indefinite\\_stay.htm](http://www.workpermit.com/news/2006_12_07/uk/new_rules_for_indefinite_stay.htm)

[http://www.workpermit.com/news/2006\\_04\\_20/uk/english\\_courses\\_investigated.htm](http://www.workpermit.com/news/2006_04_20/uk/english_courses_investigated.htm)

**Score: 1**

### 41. Host-country language Programs for immigrant children

Class room assistance for bi and multilingual children is provided in schools and additional English classes for children with English as a second language.

**Score: 1**

## 3. SCHOOLING

### 42. Possibility of public funding for Muslim private-owned schools (full time school)

Since the School Standards and Framework Act (1998) it has been possible to apply for state funding for Muslim schools. These schools can be granted 'Voluntary Aided' status (VA). Voluntary aided schools buildings and land is usually supplied by a charitable (religious) foundation, whereas maintenance costs are partly provided by the school governing body and the local education authority. Like all state-funded schools they must follow the national curriculum and be regularly inspected by Ofsted (Office for Standards in Education, schools inspectorate).

**Score: 1**

### 43. (if there is a possibility) Number of public funded Muslim schools (full-time schools)

There are currently 7 state-funding Muslim schools in the UK: Al-Hirjrah (Secondary, Birmingham); Feversham College (Bradford); Gatton Primary (Wandsworth, South London); Tauheedul Islam Girls High School (Blackburn, Lancashire); The Avenue School (primary, Brent, West London). There is none in North London.

Source:

Meer (2007) 'Muslim Schools in Britain: Challenging mobilisations or logical developments'. *Asia Pacific Journal of Education* 27(1): 53-69.

**Score: -1**

**44. Possibility of public funded for other minority group private-owned schools (full time schools)**

There is an established historical precedent for 'faith schools' – Anglicans, Catholics, Methodists and Jews have been entitled to state funding for schools since the 1944 Education Act. There are no schools with an 'ethnic' basis. A small number of Hindu and Sikh state-funded schools have been established in recent years.

**Scores:**

**General score: 1** (but on a religious basis)

**African Caribbean: -1** (but on a religious basis)

**Bangladeshi: 1** (but on a religious basis)

**Indian: 1** (but on a religious basis)

**45. (if there is a possibility) Number of public funded minority group schools (full-time schools)**

At present (February 2007) there are 7 publicly funded Muslim schools (listed above, 46); 2 Hindu and 1 Sikh school have been established in recent years, in some cases taking over existing schools in areas with high minority-faith populations. There is none in North London. It is expected that the number of state-funded faith schools will increase since the change in educational policy. State-funded Jewish and Christian schools have been in existence since the nineteenth century.

**Scores:**

**General score: -1** (none in North London)

**African Caribbean: -1**

**Bangladeshi: -1**

**Indian:-1**

**46. Cultural/language courses for pupils of minority groups inside public schools**

There is no obligation for schools to provide education in the language and culture of ethnic minority pupils under the Education Reform Act 1988. In areas with a high proportion of minority pupils LEAs may support community based language and cultural classes in supplementary (not public) schools, after day-school hours.

**Scores:**

**General score: 0** (depends on local variation)

**African Caribbean: 0**

**Bangladeshi: 0**

**Indian: 0**

**47. Changes in public schools' curriculum to take into account the cultural diversity of society**

In a number of multi-ethnic urban areas local education authorities (LEAs) have actively encouraged multicultural and anti-racist education. Bradford and Birmingham have been forerunners in this respect Bradford City Council issued guidelines as early as 1982 that all sections of the community were entitled to equal rights to the maintenance of distinctive identities and loyalties of culture, language, religion and custom (Meer and Modood 2006). More recently the amendment of the Race Relations Act (RRAA 2000)

prompted the production of the guidelines by the Department of Education and Skills (DfES 2004) to promote the 'mainstreaming of race equality' in schools in all aspects of school activity. Although the guidelines are not specific, there is considerable statutory and non-statutory support for multicultural education. The National Curriculum Council's initial remit states 'to be taking into account ethnic and cultural diversity and ensuring that the curriculum provides equal opportunities for all pupils regardless of ethnic origin and gender' (1988: 4). The Education Reform Act 1988 itself, through which the National Curriculum was established, places a statutory responsibility on all schools to promote for the 'spiritual, moral, cultural, mental and physical wellbeing of pupils at the school' (cited in King and Reiss. In multi-ethnic areas the involvement of ethnic minority organisations and religious minorities in the school is encouraged (DfES 2004).

Sources:

DfES (2004) Recommendations Leaflet: Schools' Racial Equality Policies: from issues to outcomes. DFES-1124-2004

King, A. S. and Reiss, M.J. (1993) The Multicultural Dimension of the National Curriculum. Abingdon: RoutledgeFarmer.

Meer, N and Modood, T. (2006) EMILIE preliminary report on the migration situation in the UK: Immigration in Britain: Past Developments and Present Challenges.

**Score: 1**

#### 4. RELIGION

##### **48. Religious education in public schools**

The Education Reform Act (1988) states that religious education in British state schools should 'reflect the fact that the religious traditions in Great Britain are in the main Christian . . . whilst taking into account the principles and practices of the other principle religions represented in Great Britain'. The law also prescribes daily collective worship (Anglican-Christian) from which Muslim and other faith children can be exempted. If the majority of pupils are Muslim, parents may demand to the local Council of Religious Education (which includes members of all locally relevant faiths) to instead hold Islamic collective worship or Islamic religious education classes. In some multi-ethnic cities, including Birmingham and Bradford, the council agreed and the local authorities carry the costs (Koopmans *et al* 2005). The specific information regarding North London schools is not available, however, it is likely that in certain areas where there is a high proportion of Muslims and other ethno-religious minorities that education curricula will take this into account.

Source: Koopmans, Statham, Giugni and Passy (2005) Contested Citizenship. London: University of Minnesota press.

**Score: -1/1 (varies according to local practice)**

##### **49. Islamic religious signs in the public sector**

No specific legislation, except Equality Act 2006 prohibiting 'any act which constitutes discrimination' on the grounds of religion or belief by public authorities. The headscarf is worn widely in schools, universities and other public sector organisations particularly in regions where there is a high Muslim population (including London).

**Score: 1**

##### **50. Islamic religious signs in the private sector**

No legislation. But as above (52), wearing the headscarf is accepted – prohibiting it would be a breach of discrimination legislation – actual practice depends on particular

employers and sectors.
<b>Score: 1</b>
<b>51. Islamic breaks for praying</b>
Prohibiting prayer could constitute indirect discrimination under the Equality Act (2006). In addition, the Employment and Equality Religion and Belief (2003) regulations strengthen existing statutory rights under the remit of anti-discrimination and enables Muslim workers to demand rights to attend Friday prayers, break for prayer and wear religious dress.
<b>Score: 1</b>
<b>52. Cemeteries and burial according to Islamic rite</b>
Sections of cemeteries have been reserved for Muslims in several towns and cities, although burial without a coffin is not allowed (except in Bradford) on the grounds of hygiene. The requirement to bury within 24 hours is difficult to meet.
Source:
Joly, D. (1995) <u>Britannia's Crescent: Making a place for Muslims in British society</u> . Avebury.
Koopmans, Statham, Giugni and Passy (2005) <u>Contested Citizenship</u> . London: University of Minnesota press.
<b>Score: 0</b>
<b>53. Local public budget for mosques (building and managing)</b>
No designated budget, although they may obtain a grant from the city council. Mosques are mostly funded by donations from Muslim countries and local communities.
<b>Score: 1</b>

## 5. MEDIA

<b>54. Islamic religious programs in public and state-subsidized private broadcasting (not cable and satellite)</b>
There are no state-funded religious programmes on television or radio which cater specifically for Muslims. Publicly funded BBC world service and the BBC radio Asia Network provides programmes for listeners in different languages including Hindi, Urdu and four other South Asian languages. Provision is for a generic South Asian audience.
Source: Koopmans, Statham, Giugni and Passy (2005) <u>Contested Citizenship</u> . London: University of Minnesota press.
<b>Score: -1</b>
<b>55. Programs in public and state-subsidized private broadcasting (not including cable and satellite) for other minority groups or for the whole immigrant population</b>
There are a number of Asian tv series on national BBC television (e.g. DesiDNA), depending on the seasonal schedules an Asian-specific programme is featured 1 hour a week on average.
<b>Scores:</b>
<b>General score: 1 (persons from South-Asia represent the largest group within immigrants)</b>
<b>African Caribbean: -1</b>
<b>Bangladeshi: 1</b>
<b>Indian: 1</b>

## 6. LABOUR MARKET: GROUP RIGHTS

### 56. Affirmative actions for ethnic minorities in private sector

The Race Relations Act does not allow positive discrimination or affirmative action - in other words, an employer cannot try to change the balance of the workforce by selecting someone mainly because she or he is from a particular racial group. This would be discrimination on racial grounds, and unlawful.

However, employers and others can take positive action to prevent discrimination, or to overcome past discrimination. Where over the previous twelve months no-one from a particular racial group, or only very few persons from that racial group, have been doing a certain type of work then it is lawful to offer training only for people from that racial group or to encourage people from that racial group to apply. The law does not compel employers to take positive action, but it allows them to do so.

Source: [http://www.cre.gov.uk/legal/rra\\_positive.html](http://www.cre.gov.uk/legal/rra_positive.html)

#### Scores:

**General score: 1**

**African Caribbean: 1**

**Bangladeshi: 1**

**Indian:1**

### 57. Affirmative actions for ethnic minorities in the public sector

In recent years targetted employment policies have been introduced to redress structural disadvantage. Under the Race Relations Act Amendment (2000) it is a positive duty of public authorities to promote equality and cohesion. This is not exclusively related to employment, however it does impose specific monitoring, training and targeting requirements on public employers that are designed to help them recruit, promote, and retain an adequate proportion of minority ethnic staff. Thus, public sector organisations may set targets, not quotas, to increase the participation of ethnic minorities in their workforce. For example: the central government, for example, set targets to double the percentage of minority ethnic employees in the senior civil service by 2005.

Source:

Rudiger, A. and Spencer, S. (2003) Social Integration of Migrants and Ethnic Minority Policies to Combat Integration. Paper presented at the *Economic and Social Aspects of Migration* European Commission/OECD conference, 21-22 July.

#### Scores:

**General score: 1**

**African Caribbean: 1**

**Bangladeshi: 1**

**Indian:1**

### 58. Measures to further the integration of foreigners into the labour market

An explicit commitment to labour market inclusion was set out in the government white paper 'Full and fulfilling employment: creating the labour market of the future' (2002) and the Employment Action Plan (2002). An example of a general employment policy with a mainstreamed focus on ethnic minorities is the New Deal for Young People. As ethnic minority young people are 75-80 per cent as likely to get jobs as white young people. This programme seeks to improve the employability of ethnic minorities and collaborate with employers to redress structural barriers.

Source:

Rudiger, A. and Spencer, S. (2003) Social Integration of Migrants and Ethnic Minority

Policies to Combat Integration. Paper presented at the *Economic and Social Aspects of Migration* European Commission/OECD conference, 21-22 July.

**Score: 1**

### **III – GENERAL POS**

#### **1. CONFIGURATION OF POWERS**

##### **59. Degree of federalism and decentralization**

UK government is very centralised; on Lijphart's index of federalism it scores 1.0 (based on variables 1971-1996) – although since the Labour general election victory of 1997 constitutional reform has led to election of regional assemblies and devolution of powers to them. These include: the Greater London Authority, the Scottish Parliament and the Welsh regional assembly.

Source: Lijphart, A. (1999) *Patterns of Democracy*. New Hale and London: Yale University Press.

**Score: 1.0**

##### **60. Decentralization at the local level: sub-local public structures (at the level of district, neighbourhood) with political powers**

London is divided into 32 boroughs (including the four we are focusing on for this study in North London, Camden, Islington, Haringey and Islington). Each borough provides services such as education, housing, social services, street cleaning, waste disposal, roads, local planning and many arts and leisure services. The boroughs do not run police or health services. In general the borough councils are involved in the implementation of national policies, although in some sectors, such as education and local planning, policies are defined at the local level.

In addition, London is governed by two bodies – the Mayor and the London Assembly – these comprise the GLA (Greater London Authority). It is the only British city to have an elected assembly and a mayor, their role is to provide an overall strategy and vision for London and scrutinise provision of services at the borough level. Thus, the implementation of local services (listed above) is dealt with autonomously within the borough councils unless the issues cross-cut with strategies for the whole of London (developed by the GLA), for example, regarding: transport, planning, economic development, policing and the environment.

Source: <http://www.london.gov.uk/london-life/city-government/index.jsp>

**Score: 1**

##### **61. Power distribution in the city**

London is governed by two bodies – the Mayor and the London Assembly – these comprise the GLA (Greater London Authority). It is the only British city to have an elected assembly and a mayor, their role is to provide an overall strategy and vision for London and scrutinise provision of services at the borough level. There is a balance of power between the executive (Mayor and Assembly) and the borough councils (see 60).

##### **62. Electoral systems- local level**

Each council is made up of elected councillors (usually around 60) representing wards within the borough. Local elections are based on a majoritarian electoral system, however the London Assembly is appointed by a complex proportional system whereby the distribution of seats (between parties and independent candidates) will always be

proportional to the total votes cast across London.

Source:

<http://www.london.gov.uk/assembly/constituencies.jsp>

**Scores:**

Northern London boroughs: -1

London city: +1

**63. Party system in the city**

Multiparty system

**64. Party (ies) in the power in the city**

A coalition of parties form the Greater London Authority. It has 25 members representing 14 constituencies (covering the 32 borough council areas): Conservative (9), Labour (7), Liberal Democrats (5), Greens (2) and UK Independence (2) parties. No party has overall control; however, the assembly members for North London are predominantly Labour. The Mayor, Ken Livingstone is Labour (formerly a Labour MP). The selected boroughs of this study are divided into smaller electoral wards which are represented by elected councillors at the local level:

Camden, no party has overall control (Conservative 14; Green 2, Labour 17, Liberal Democrats 21)

Islington, no party has overall control (Labour 23, Liberal Democrat 21, Green 1)

Haringey, Labour (Labour 30, Liberal Democrat 27)

Hackney, Labour (Labour 33, Conservative 7, Liberal Democrat 2)

Sources: <http://www.londoncouncils.gov.uk>; <http://www.camden.gov.uk>;  
<http://www.islington.gov.uk>; <http://www.haringey.gov.uk>;  
<http://www.hackney.gov.uk>

<http://www.islington.gov.uk>; <http://www.haringey.gov.uk>; <http://www.hackney.gov.uk>

**65. Party(ies) in power- national level**

From May 1997 until February 2007 there has been a Labour government. There is a general election every 4-5 years, since the last election was in 2005, the next is not due until 2009.

**66. Party (ies) in power- local level**

As above, 64. There were local elections in 2002 and 2006.

Camden, Labour, 1998, 2002; Labour lost power in 2006, LibDem/Conservative coalition formed.

Hackney, Labour, 1998, 2002, 2006.

Haringey, Labour, 1998, 2002, 2006.

Islington, Labour, 1998, Liberal Democrat 2002, No overall control 2006.

The first elections for the GLA were in 2000, the balance of power was similar to the current: Conservative (9); Labour (9); Liberal Democrats (4); Green (3). There was a shift from Labour and increase in support for the UK independence party in 2004 (see 64)

Source: <http://www.londoncouncils.gov.uk>

## 2. PARTICIPATION MECHANISMS

**67. Referenda (local level)**

The Political Parties, Elections and Referendums Act 2000 (PPERA), sets out the legal framework under which UK, national and regional referendums will be held. Under this legislation the Electoral Commission was designated responsible for monitoring the expenditure and question wording of local and national referenda. Local referendums have been held on the matter of elected regional assemblies and the organisation of local

government (to single tier, for example). Local referenda are not held frequently, but are rather exceptional; typically they address constitutional matters such as the creation and organisation of regional institutions.

Source: The Regional Assembly and Local Government Referendums Order (2004)  
[http://www.legislation.gov.uk/si/si2004/ksi\\_20041961\\_en.pdf](http://www.legislation.gov.uk/si/si2004/ksi_20041961_en.pdf)

**Score: -1** (exceptional referendum on ‘constitutional’ issues)

#### **68. Who can initiate the referendum? (local level)**

The UK government. An Act of Parliament was required for the holding of a referendum on the establishment of a Greater London Authority and for expenditure in preparation for such an Authority.

Source: The Greater London Authority Referendum Act (1998)  
<http://www.opsi.gov.uk/acts/acts1998/98003--a.htm>

**Score: -1** (exceptional referendum on ‘constitutional’ issues)

#### **69. Number of (consultative or binding) referenda lead over the past 10 years**

One, the Greater London Authority Referendum (1998) was held and voted in by 72 per cent of the population for the establishment of the GLA.

Source: <http://www.electoralcommission.org.uk/referendums/London1998.cfm>

**Score: -1**

#### **70. Existence and type of citizen assemblies (Local level)**

Some, Camden and Islington have initiated citizens’ panels in recent years to improve local democracy (see below, 75). Small consultative panels (12-15 members, without special vested interests in the topic) ‘citizens’ juries’ have been used to assess public opinion on contentious issues by government and local government for several years. Concerns regarding voter apathy and disengagement with British politics have provoked debate regarding the institution of citizens’ assemblies following the Canadian model.

Source:

[http://www.cabinetoffice.gov.uk/REGULATION/consultation/consultation\\_guidance/methods\\_of\\_consultation/citizens\\_juries\\_forums.asp](http://www.cabinetoffice.gov.uk/REGULATION/consultation/consultation_guidance/methods_of_consultation/citizens_juries_forums.asp)

Rogers, B. (2006) ‘Citizens’ Assemblies: radical common sense’

<http://www.opendemocracy.net/xml/xhtml/articles/4097.html>

**Score: 0**

#### **71. Powers of citizen assemblies**

The citizens’ panels (e.g. CamdenTalks) are purely consultative, for citizens to ‘have their say on quality of life in the borough’ and public services and, thus, inform decisions made by council but not hold decision-making power in itself.

Source: <http://www.camden.gov.uk/ccm/content/council-and-democracy/having-your-say/camdentalks/introduction-to-camdentalks---camdens-citizens-panel.en>

**Score: 0**

#### **72. Involvement of civil society organizations in the definition of local policies**

Local authorities engage in consultation processes with residents and specific interest groups and NGOs regarding contentious issues and policies. However, the consultative process is often optional and not binding.

**Score: 0**

#### **73. Involvement of civil society organization in the implementation of local policies**

Civil society organisations may be involved in the implementation of local policies in partnership with public institutions.

**Score: 0**

<b>74. Pluralism of the participation system in the city</b> Participation is co-ordinated (but not binding), more than one civil society organisation may be involved however.
<b>Score: 0</b>
<b>75. Is there a specific department in the local council devoted to promote citizen participation?</b> A number of initiatives have been introduced in recent years to improve local democracy and consultation processes. These are listed as follows: <ul style="list-style-type: none"> <li>• Camden has a consultation service, Camden Consults, and a citizens' panel, Camden Talks; both are designed to improve participation of residents.</li> <li>• Hackney has a Customer and Corporate services directorate who deal with communication and consultation, as well as a number of other services.</li> <li>• Haringey does not have a designated department for participation, but council meetings are open to the public and residents can apply to put questions forward at these meetings.</li> <li>• Islington has a 'Customer Focus' department/service, within this the 'Communications and Consultation' unit is intended to improve interaction between the residents and the council. There is also a consultation team which initiates consultation and research and co-ordinates the citizens' panel of 1800 residents.</li> </ul>
<b>Scores:</b> <b>Camden/Islington: 1</b> <b>Hackney/Haringey: 0</b>
<b>76. Is there a bill of rights or a similar local legislation that regulates how citizens can influence the decision-making processes in ways other than selecting their elected representatives?</b>
No.
<b>Score: -1</b>
<b>77. Number of local-council-owned buildings granted to associations as meeting spaces</b> <b>Raw number per 1,000 inhabitants</b> Exact figure not available. A lot of public community centres and day centres are available in each borough.
<b>Score: N.A.</b>
<b>78. Average percentage of local budget devoted to subsidizing associations in general (1995-2005) Raw number</b> Not available.
<b>Score: N.A.</b>
<b>79. If there are sub-local public structures: do citizens have participation mechanisms within these structures?</b> Citizens participate by electing local councils. In Camden and Islington, citizens panels are consulted via a number of methods (telephone and postal questionnaires, focus groups and online) with a broad remit to improve quality of life in the boroughs and a specific focus on the provision and delivery of services and future development strategies.
<b>Scores:</b> <b>Camden/Islington: 1</b> <b>Hackney/Haringey: 0</b>

## **IV – SPECIFIC POS (related immigration and ethnic relations)**

### **80. Main responsibility for immigrants' integration policies**

Nationally, the Secretary of State for communities and local government set up the *Commission on Integration and Cohesion* in July 2006. This is an advisory body for a fixed term to consider how local areas can make the most of the benefits delivered by increasing diversity - but will also consider how they can respond to the tensions it can sometimes cause. The report is due in June 2007. The Department for Communities and Local Government is responsible for diversity and integration policies and initiatives more generally.

At present the Commission for Racial Equality offers advise and statutory support for ethnic minorities facing discrimination. A number of local Racial Equality Councils (RECs) exist in cities across the UK which are partly funded by the CRE and offer information and advice about rights and may offer legal assistance. The Commission for Equality and Human Rights will adopt the role of the CRE and other equality councils later this year.

Local authorities exercise considerable powers regarding education, planning law and places of worship and provision of translated materials to non-English speakers.

Source: <http://www.communities.gov.uk/index.asp?id=1501520>

**Score: 0**

### **81. Public information and support services for immigrants at the local level (which inform them about their rights, the institutions to which they can address, etc).**

There are extensive information and support services for immigrants and settled minorities available at the local level, the provision of information is integrated into the provision of services across council departments. In addition, Haringey Racial Equality Council is linked to the national Commission for Racial Equality which is publicly funded.

Sources:

<http://www.camden.gov.uk/ccm/navigation/community-and-living/your-local-community/minority-communities/minority-communities-a-m/>

**Score: 1**

### **82. Which institution (s) has (ve) the leading role in the field of immigrants' integration? – Local Level**

The councils in the four London boroughs, the Mayor and the General London Assembly.

### **83. Policies related to immigrants' integration at the local Level**

Equality and diversity concerns are an integral element of local council policies in keeping with the national government's community cohesion agenda (see 80). Thus, 'integration' is not a focus of council activities or policies, but rather the provision of services to meet the needs of all residents including ethnic minorities within a 'community cohesion' agenda, which is particularly aimed at redressing socio-economic disadvantage. Haringey is particularly diverse and has an explicit Equality and Diversity policy, which places these issues 'at the heart of all its work' and a Race Equality Scheme to implement the amendment of the Race Relations Act (RRA 2000), which places the onus on public authorities to tackle discrimination and promote good race relations. Similarly, Camden has an Equalities and Social Inclusion Team, Haringey has an Equalities team, and Islington has an Equality and Diversity Unit. These initiatives are framed in terms of respect for all and aimed at tackling discrimination – on the grounds of race, gender, disability, age, sexuality and religion – and not just targeted at immigrants/minorities.

Source:

<p><a href="http://www.hackney.gov.uk/index.htm/xh-yc-equalities/ce-pandc-equality-diversity-861.htm">http://www.hackney.gov.uk/index.htm/xh-yc-equalities/ce-pandc-equality-diversity-861.htm</a>  <a href="http://www.islington.gov.uk/Community/equalitydiversity/">http://www.islington.gov.uk/Community/equalitydiversity/</a></p>
<b>Score: 1</b>
<b>84. Is there a specific department in the local council devoted to immigrants' integration policies?</b>
No specific department, policy is integrated within various departments.
<b>Score: 0</b>
<b>85. Percentage of total local budget devoted to immigrants' integration policies Raw percentage</b>
Not available; the budget is allocated by department (education, social services, housing, leisure and community services etc.) each of which may involve policies tailored to meet the needs of minorities but not necessarily meaning integration. The refugee integration programmes in each local authority would have a specific budget, however, this is not relevant to the three selected ethnic groups.
<b>Score: N.A.</b>
<b>86. Existence of a council/board/assembly that represents immigrants/minority groups (for example, in France, the Parisian Council of Non-EU foreigners)</b>
There are hundreds of local organisations which represent the rights of immigrants and minorities at the local level, some of which have public funding. However, there are no public boards at the local level with an exclusive focus on migrants or minorities.
<b>Score: -1</b>
<b>87. Involvement of minority/immigrant organizations in the <u>definition</u> of local policies</b>
In North London there are hundreds of voluntary and community sector organisations specifically for minorities and immigrant groups. These provide a wide range of services from legal advice concerning immigration to resources for the arts and cultural activities. In recent years, efforts to improve community cohesion and local democracy have led to the establishment of the Camden Faith Communities Partnership, the Haringey Strategic Partnership, the Hackney Corporate Equalities plan and the Islington Strategic Partnership. The remit of these initiatives is to improve the quality of life of residents, enhance neighbourhood and community cohesion and mainstream equality and diversity issues. Consultation with members of key local stakeholders, faith communities, equality rights and neighbourhood forums is integral to these initiatives.
Sources: <a href="http://www.camden.gov.uk">http://www.camden.gov.uk</a> ; <a href="http://www.islington.gov.uk">http://www.islington.gov.uk</a> <a href="http://www.haringey.gov.uk">http://www.haringey.gov.uk</a> ; <a href="http://www.hackney.gov.uk">http://www.hackney.gov.uk</a>
<b>Scores:</b>
<b>General score: 1</b>
<b>African Caribbean: 1</b>
<b>Bangladeshi: 1</b>
<b>Indian:1</b>
<b>88. Involvement of minority/immigrant organizations in the <u>implementation</u> of local policies</b>
Yes, depending on the organisations' remit, in partnership with public institutions.
<b>Scores:</b>
<b>General score: 0</b>
<b>African Caribbean: 0</b>
<b>Bangladeshi: 0</b>

<b>Indian:0</b>
<b>89. Involvement of organizations specialized in immigration/integration issues in the definition of local policies</b>
Some organizations have a consultative role in the definition of local policies (see 87).
<b>Score: 0</b>
<b>90. Involvement of organizations specialized in immigration/integration issues in the implementation of local policies</b>
Organisations are not established under the rubric of 'integration', however, equality and diversity are consistent themes throughout each city council's policies and public agenda. For example: the Racial Equality Joint Consultative Council and the Communities Empowerment Network are represented in the Haringey Strategic Partnership. Other organisations are involved in the provision of advice and services to immigrants (e.g. the Asian women's Centre, the Camden Community Law Centre) in partnership with public institutions.
<b>Score: 0</b>
<b>91. Involvement of organizations playing a relevant role for immigrants 'integration (such as Human rights organizations) in the definition of local policies</b>
As above.
<b>Score: 1</b>
<b>92. Involvement of organizations playing a relevant role for immigrants 'integration (such as Human rights organizations) in the implementation of local policies</b>
As above.
<b>Score: 0</b>
<b>93. Involvement of the local power in the funding of minority/immigrants organizations</b>
Under the national governments' social cohesion and neighbourhoods agenda, local authorities preferentially fund specific disadvantaged groups within regions, such as single parents, disabled people and ethnic minority groups. Thus, funding is directed towards groups who experience socio-economic disadvantage and are, thereby, deemed at risk of social exclusion.
<b>Score: 1</b>
<b>94. Requirements to be able to apply for subsidies</b>
A number of criteria exist in each of the London boroughs pertaining specifically to 'community and voluntary sector' organisations. The same criteria are applied to immigrant and non-immigrant organisations, except that concerns to tackle the disadvantage faced by specific minority groups may enhance their capacity to attract funding. Examples of the main criteria are listed below:
Camden: Community Grants are aimed at locally run and managed voluntary and community organisations with an income of less than £50,000 per year, run by volunteers or with one full time or two part time paid staff. These grants are tailored to meet the needs of specific disadvantaged communities (including minorities) in keeping with the Government's community cohesion strategy.
Hackney: The organisation must be: not for profit; located in the borough to serve the needs of local residents; financially solvent; and not a public or local authority body.
Sources: <a href="http://www.camden.gov.uk">http://www.camden.gov.uk</a> ; <a href="http://www.hackney.gov.uk">http://www.hackney.gov.uk</a>
<b>Score: 1</b>
<b>95. Party arrangements to favor the presence of persons with ethnic minority background in the leadership of the party – Local level</b>

There has been much debate concerning the under-representation of ethnic minority candidates in local and national politics. At present there are 15 minority MPs and 4% of local councillors are from ethnic minority groups. There has been concern in all major political parties, Labour, Liberal Democrat and Conservative, to increase their numbers of ethnic minority candidates, and discussion regarding quotas or implementing policies like Labour adopted in 1997 (i.e. all women shortlists), however, current legislation does not allow for positive discrimination. The Liberal Democrats have been particularly active in their *Reflecting Britain* campaign to increase their numbers of ethnic minority candidates.

Sources:

Institute for Public Policy Research (2002) 'Positive Action now vital to tackle under-representation of ethnic minorities'. <http://www.ippr.org.uk/pressreleases/>

Operation Black Vote (2007) 'BME councillors represent 4% of local government'. <http://www.obv.org.uk>

<http://reflectingbritain.org.uk/>

**Scores:**

**General score: 1**

**African Caribbean: 1**

**Bangladeshi: 1**

**Indian:1**

**96. Party arrangements to favour the presence of persons with ethnic minority background in the party (rank-and-file members)– Local level**

The Islington North Labour party has an Ethnic Minority forum to encourage participation of members of ethnic minority candidates. Hackney Labour party is active in the promotion of participation from the 'diverse community' and includes specific information in Turkish on its website. As stated above (96), the Liberal Democrat national campaign sought to gain members support for ethnic minority only shortlists.

**Scores:**

**General score: 1**

**African Caribbean: 1**

**Bangladeshi: 1**

**Indian:1**

**97. Share of radical right and anti-immigrant parties in the electoral vote – National level: general elections Mean over the 10 past years (raw percentage)**

In the 2005 general election, the UK Independence Party (UKIP) secured 2.2% of the vote, representing a 0.7% increase – this party is opposed to British membership of the EU, primarily, and also anti-immigrant. The British National Party (BNP) secured 0.7% of the vote, representing a 0.5 increase. In the preceding two elections, the extreme right secured 1.4% in 1997 and 3.6% in 2001, making the mean for 10 years 2.6%.

Sources: [http://news.bbc.co.uk/1/hi/uk\\_politics/vote\\_2005/default.stm](http://news.bbc.co.uk/1/hi/uk_politics/vote_2005/default.stm)

<http://www.guardian.co.uk/racism/Story/0,2763,514489,00.html>

**Score: 1**

**98. Share of radical right and anti-immigrant parties in the electoral vote – Local level: general elections Mean over the 10 past years (raw percentage)**

In the last 3 general elections the British National Party did not secure enough votes in North London to be recognized in available statistics; due to lack of local support extreme right parties did put forward candidates in these constituencies.

Source: <http://news.bbc.co.uk/1/shared/vote2005/html/498.stm>

**Score: 1****99. Share of radical right and anti-immigrant parties in the electoral vote – Local elections (city council) Mean over the 10 past years (raw percentage)**

The British National Party does not have representation in any of the four selected London boroughs. In the 2004 Greater London authority elections the BNP polled 4.8% in the previous election in 2000 they polled 2.9% of the vote. In both cases being below the five percent threshold meant they were unable to secure representation. The average is therefore: 3.85%. Margetts, John and Burrows (2004) argue on the basis of the GLA and European elections that there is latent support for the extreme right in British politics.

Source: House of Commons (2004) Electoral Performance of Far Right Parties, Standard Note, SN/SG/1982. Author: Jessica Unwin.

Margetts, H, John, P and Weir, S. (2004) 'Latent Support for the Far-Right in British Politics: The BNP and UKIP in the 2004 European and London Elections'. Paper presented at the PSA EPOP conference, 12, September.

[http://www.governmentontheweb.org/downloads/Elections\\_London/Far-Right-Paper-EPOP-2004.pdf](http://www.governmentontheweb.org/downloads/Elections_London/Far-Right-Paper-EPOP-2004.pdf)

**Score: 1**

## **GENERAL CONCLUDING COMMENTS**

Three main trends can be identified with respect to immigration legislation and ethnic relations in Britain in recent years.

- There has been a tightening of immigration legislation for Commonwealth citizens (including the three groups). Increasingly, labour market shortages are expected to be filled by the EU new member-States. In practice, there is a two-tier system with highly skilled migrants having greater rights with respect to extending their stay, whereas low-skilled migrants are given limited leave to remain on the basis that they will return.
- There has been a strengthening of legislation to tackle discrimination on the grounds of religion and belief, as well as ethnicity. Thus, protections for Muslims in employment have been strengthened. It is seen as important that the workforce reflects the population – in terms of ethnic diversity – thus, a number of measures endorsing positive action on behalf of minorities are encouraged, particularly in the public sector.
- Fears regarding a lack of integration of Muslim communities in the British society have led to criticism of so-called ‘multicultural policies’. Thus, new requirements for citizenship and residence acquisition (the ‘Life in the UK’ test) have been introduced. These concerns may prompt a backlash which could lead to a reduction of multicultural education in schools, for example, and a reduction of the provision of public sector information in different languages (in health or social services, for example) however, this requires further investigation at the local level to substantiate.

British policies – at local and national levels – tend towards *mainstreaming diversity*, such that ethnic and other forms of diversity are integral to the provision of public services. Thus, ‘integration’ is not a focus of council activities or policies, but rather the provision of services to meet the needs of all residents including ethnic minorities within a ‘community cohesion’ agenda, which is particularly aimed at redressing socio-economic disadvantage. Progressively tighter immigration rules limit the possibilities of new arrivals from the three places of origin; nonetheless figures demonstrate that a high proportion of grants of settlement for spouses are from the Indian subcontinent. Thus, British policies point to a consolidation of the position of settled minorities, by strengthening the rights of Muslims (to mobilise for rights in employment and against discrimination on the grounds of religion) for example, whilst discouraging and limiting further immigration from the Caribbean or South Asia.