

European Commission Consultation on the preparation of an Action plan on Integration and Inclusion - Contribution by the Council of Europe

Executive Summary:

*In the context of the long-standing partnership between the Council of Europe (CoE) and the European Union (EU), this contribution to the EU-wide public consultation on the social inclusion of migrants and people with a migrant background aims at **highlighting the current policies, tools and standards** developed within the CoE in the field of Integration and Inclusion.*

*Keeping in mind the **similarity of goals and the partial overlap of membership of our two organisations**, the office of the Special Representative of the Secretary General of the Council of Europe on Migration and Refugees coordinated this collection of standards and activities from various CoE units. This information may represent a useful source for the Commission. The CoE would encourage the EU to consider CoE **existing standards and activities when preparing the Action Plan with a view to avoid contradictions and duplications, and to create renewed opportunities for enhancing the partnership between the two organisations.***

*This paper starts with outlining the main policy areas related to integration: the **intercultural integration approach** adopted by the organisation, the need for **gender-sensitive** integration and inclusion policies and for a targeted support of **migrant children** in integration policies.*

*It then provides information on **useful tools** developed by the Council of Europe to help migrant inclusion which could support and contribute to the development of policy actions of the future EU Action Plan on Integration and Inclusion and their subsequent implementation.*

*Finally, the main standards underlining those policies and tools are recalled: the **European Convention of Human Rights** and its case law, **the Social charter** as well as key Council of Europe Conventions, the **General Policy Recommendations of the European Commission against Racism and Intolerance (ECRI)**, and other recommendations and instruments contributing at setting the standards to which the 47 Member States of the Organisation shall abide.*

The Council of Europe (CoE) and the European Union (EU) have been working in partnership for many years, on the basis of the 2007 Memorandum of Understanding, in order to strengthen a common European legal and policy space based on shared values – human rights, democracy and the rule of law. It is therefore of utmost importance that new policy initiatives on both sides continue to help enhancing that common approach, with the CoE and the EU reinforcing each other's messages.

The Secretariat of the CoE welcomes the European Commission's initiative to prepare a renewed **Action Plan on integration and inclusion** and **stands ready to contribute** to its development and its eventual implementation with its significant standard-setting and policy expertise in this field.

Should the EU Action Plan call for new EU legal frameworks and policies, the CoE would encourage the EU to build on and consider the current *acquis* within the CoE. This includes the European Convention on Human Rights and its case law, as well as the benchmarks developed by European Committee of Social Rights in compliance with the Social charter, and by the European Commission against Racism and Intolerance (ECRI). These standards provide helpful orientations when devising new policy tools to improve integration and inclusion of migrants.

The standards developed through the **case-law of the European Court of Human Rights** in respect of migrant's integration policies are mainly to be found in **the right to respect for private and family life (Article 8)** and **the prohibition of discrimination (Article 14)**. As to the former, even though the Convention does not stipulate the right of entry to a Council of Europe member state for immigrants' family members per se, **the case law has provided protection when disproportionate restrictions in the context of deportation/expulsion result in a break-up of family unity, and in cases of refusal of entry for the purposes of family reunification**. The European Court of Human Rights has developed a set of criteria when assessing such applications, some of which are linked to the degree of integration of the individual in the receiving state, in particular: the duration of the individual's stay; his/her family situation; and the difficulties that would be faced by the spouse in the country of origin, thus assessing the difficulty of the spouse's re-integration; the best interests and well-being of the children with regard to difficulties that children are likely to encounter in a country to which the applicant is likely to be expelled; and, finally, the solidity of social, cultural and family ties with the host country and the country of destination, making integration an express criterion to be applied by the courts. The right to non-discrimination in relation to migrants' integration requires that **differential treatment would not amount to discrimination among nationals depending on national and ethnic origin**. Increasingly, the legitimacy of national migration policies is scrutinised by the Court, including as regards the reception of asylum seekers (**prohibition of torture - Article 3**).

Complementary to the ECHR, the **European Social Charter** and its case-law, developed by the European Committee of Social Rights (ESCR), **increasingly contributes to promoting the social rights of migrants and refugees, and therefore helps their integration and inclusion in the societies** of the CoE State parties, which are also members of the EU. The Charter guarantees **the right of migrant workers and their families to protection and assistance (article 19)**, including the right to family reunion, which has been extensively developed by the ESCR while examining member countries' restrictions on family reunification such as pre-departure or in-country integration requirements. Article 19 also provides **working migrants** lawfully resident and national of other contracting parties, with protection from discrimination, prohibition of slavery and forced labour and right to adequate work conditions. In addition, other ESC articles ensure migrant's protection. For instance, the right to housing covers the right to shelter, which is extended to all foreigners, even when non-lawful resident, in order not to deprive them of their rights linked to life and dignity under the Charter. The ECSR also considers that that the detention of children on the basis of their immigration status or that of their parents' is contrary to the best interests of the child.

The work of the **European Commission against Racism and Intolerance (ECRI)** has revealed that persistent lack of integration leads to social fragmentation, diminishing cohesion and the development of parallel societies, which contributes to racism and racial discrimination. Two groups have proved to be particularly affected, namely on the one hand **migrants and people with migration backgrounds**, and on the other hand historic ethnic, religious and linguistic minorities. ECRI in its work therefore strives to combat such racism and intolerance, notably by the issuance of **General Policy Recommendations (GPRs), including on migrants**. The GPRs constitute ECRI's core standards and are addressed to the governments of all Council of Europe member States, including EU Member States. They provide detailed guidelines, which policymakers are invited to use when drawing up national strategies and policies in a variety of policy areas, including health care, education, housing, employment, law enforcement and sports. The GPRs are supplemented by concrete country-specific recommendations issued in ECRI monitoring reports.

The relevant conventional provisions, related case-law and soft law instruments adopted by the Council of Europe are detailed in the last part of this document.

I. Council of Europe Policy on migrant integration and inclusion

1. An inclusive, whole-society concept of integration or “Intercultural integration”

The Council of Europe’s member states have adopted in 2015 a common standard on intercultural integration, concerning in particular local-level policies. (Recommendation CM/Rec(2015)1 of the Committee of Ministers to member States on intercultural integration). The intercultural integration approach is now applied by over 140 cities in Europe and beyond and many more cities are preparing to adopt it in the coming months.

The effectiveness of the **intercultural integration approach for community cohesion** but also for the satisfaction of citizens with local governance and with the economic opportunities, have been supported by research evidence¹. There is also ample evidence to **support the “diversity advantage” linked to migration** (provided diversity is managed in a positive and competent way): diversifying the management and staff of enterprises has been proven to increase productivity and innovation; more diverse neighbourhoods are more "prosocial" (supportive of those in need of solidarity) and inclusive diverse schools deliver better education results, given the staff has sufficient intercultural competence to work with diverse pupils and parents.

The intercultural integration approach shares the **“integration as a two-way street”** ambition of the EU Common Basic Principles on integration, and proposes a **detailed and coherent policy framework to ensure not only equality and non-discrimination but also a genuine acceptance of diversity as an asset** and the capacity of institutions in all fields to foster interaction and cohesion in diverse societies.

The **Intercultural integration concept** has three pillars:

- **equality**: equal access to **social, economic and local civil rights and opportunities** for all persons legally residing on the member states’ territory; of particular importance in this respect are the expeditious recognition of qualifications obtained abroad, the acquisition of local voting rights within reasonable period of residence², as well as access to key rights and services by undocumented residents in accordance with the case law of the European Court of Human Rights and the European Social Charter.
- **diversity**: embracing diversity as an **asset for economic, cultural and social development**: ensuring diversity in public institutions’ staff and decision-making bodies; designing public spaces and neighbourhoods which enable diverse residents to live and work together in a positive spirit; encouraging diversity in enterprises, including at management level; fostering intercultural competence among public and service officials in all sectors, including education, police, health etc. in order to maximise the diversity advantage and minimise conflict;
- **interaction**: facilitate positive interaction among diverse residents in the context of **educational, cultural, economic and political life** and ensure **genuine participation** and policy co-design involving residents of a wide range of backgrounds.

Intercultural integration is a **whole community approach** because it focuses on the development of competence and culture of diversity and inclusion within society and institutions as well as putting in place the necessary structures and policies which foster effective anti-discrimination (in an intersectional perspective, including gender, age, sexual orientation and gender identity and other characteristics) and empowerment of migrants.

¹ How the Intercultural integration approach leads to a better quality of life in diverse cities – MPG Assessment report

² In compliance with the Convention on the Participation of Foreigners in Public Life at Local Level.

The intercultural integration approach is very close in spirit to **community sponsorship** (which of course requires its own legal framework) in a sense that it empowers local communities to actively welcome and support newcomers, mobilise and share resources with them, include them in local networks and help them build meaningful relations which enable educational, economic and social inclusion, and foster community cohesion.

As of 2020, the Council of Europe is working on a **new standard for its member states**, on multi-level governance and policies for intercultural integration, in order **to extend the intercultural principles to policies at the regional and national levels**. The instrument is expected to be adopted in early 2022.

It would be therefore important to ensure that the CoE standards and the EU Action Plan share to the extent possible **the same principles and offer the same vision** of diversity as an asset and the potential of inclusive integration policies to maximise the diversity advantage and enhance the contribution of migrants to their host societies. It would also be important that any specific action of the proposed integration policies take into account, when appropriate, **the good practices developed so far, including in the CoE context (see also below the section on “tools”)**.

Finally, the development and implementation of inclusive integration policies is a **long-term process** and requires long-term support which goes beyond the lifetime of most projects funded by the EU or by national budgets. **Funding** should be longer-term (at least 5 years), should focus on strategic actions which can have multiplier effect (eg. development and implementation of national, regional and local integration strategies), and flexible so as to ensure that developments and emerging new needs or solutions can be taken into account.

2. [Gender sensitivity throughout integration and inclusion policies](#)

Gender equality is an important policy area and central principle in the work of the Council of Europe. Persisting gender inequalities lead to different needs and situations between women and men and require the **integration of a gender equality perspective in all areas**. Paying attention to the vulnerabilities of migrant women and ensuring that policies and services are gender sensitive is essential to ensure that **integration and inclusion policies are adapted to the needs of all migrants and people with a migrant background**.

In order to ensure that migration has a positive impact both on women and men on host societies, the following aspects need to be considered:

- Despite an increasingly large number of highly qualified migrant women arriving in Europe, **migrant women constitute the largest over-qualified and under-employed group in Europe**.
- Women of ethnic minorities, migrant and refugee women in Europe face particular challenges, including in relation to **violence, access to justice, precariousness and related risks of poverty and social exclusion**.
- **Barriers to the active labour market participation** of migrant women include lack of independent legal status, barriers to the recognition of their skills, diploma and professional qualifications, lack of women-specific employment policies and constraints related to care and household work.
- The **social and economic integration** of migrant, refugee and asylum-seeking women and girls requires access to health, housing, education and violence protection services, to language and digital skill courses and other integration programmes adapted to their needs and situation. Some groups of migrant women may require **specialised services** in this respect.
- Migrant refugee and asylum-seeking women and girls face **double discrimination**: they are sometimes restricted **within their own communities** by cultural codes, customs, religion or tradition and by different stereotypes and institutional barriers **in host countries**. Similarly, racism and stereotypes play a role in relation to the sexual violence, exploitation and objectification of migrant, refugee and asylum-seeking women.

- To ensure the full and meaningful participation in economic and civic life of women from different ethnic minority groups it is important to acknowledge cultural differences, while never justifying discrimination against them. It is therefore important to pay special attention to **measures aimed at dismantling gender stereotypes**, including those supposedly based on culture, tradition and religion, and to support and actively engage with (migrant) women’s organisations on those topics.

Building on the Council of Europe Gender Equality Strategy 2018-2023, the Council of Europe is currently **updating its Recommendation Rec(79)10 concerning women migrants** on the basis of an analysis of needs and gaps that need to be addressed and in accordance with the principles outlined above.

3. Targeting integration and inclusion of children of migrants and of immigrant background

Children are one of the specific groups of migrants that **need targeted support**. Ensuring the integration of refugee and migrant children remains an ongoing challenge and a long-term commitment for the CoE. Action in this area is guided by the **Council of Europe Strategy for the Rights of the Child (2016-2021)**, whose implementation is overseen by the Steering Committee for the Rights of the Child (CDENF) as of January 2020. In particular, the Strategy for the Rights of the Child recalls that children on the move and otherwise affected by migration are **one of the most vulnerable groups in Europe today**, as they face limited access to justice, education, social and health services. While unaccompanied children face a particularly precarious situation, migrant children at large even when accompanied by parents often suffer persistent violations of their human rights. Some of the main challenges for the successful integration and inclusion of migrants and, in particular of migrant children, include limited access to quality health and social services and social protection, education systems which are not sufficiently inclusive, negative portrayal of migrants in the media, difficulties in getting access to public services, complexities related to the legal status of family members and long asylum processes and difficulties of obtaining a legal status.

The Council of Europe Commissioner for Human Rights issued an opinion in 2015 calling on states to ensure that **education policies are inclusive** of the needs of migrants and people with a migrant background.

The Council of Europe Action Plan on Protecting Refugee and Migrant Children in Europe (2017-2019), coordinated by the Special Representative on Migration and Refugees, focused notably on ensuring access to rights and child-friendly procedures, providing effective protection and **enhancing the integration of children who would remain in Europe**. Under the Action Plan, many actions focusing on inclusion and integration of children were implemented (see below the section on “tools”).

Therefore, in order to ensure inclusion and integration of children on the move, **the EU could focus its action on** (i) supporting actions on the ground through EU funds; (ii) providing technical support and capacity building to national authorities and other key integration actors; and (iii) encouraging the sharing of knowledge across EU countries and key integration actors, in the following priority areas of work:

- Education, including early childhood education and care;
- Vocational training, lifelong learning and skills development;
- Recognition of qualifications and validation of skills of migrants;
- Promoting participation through youth, culture and sport;
- Fighting discrimination and prejudices; and
- Reducing education and spatial segregation.

II. Effective CoE tools for migrant integration and inclusion

As concluded in the issue paper by the Special Representative of the Secretary General on migration and refugees of the Council of Europe on Human rights aspects of immigrant and refugee integration

policies, policies promoting **voluntary integration** are preferable to obligatory integration policies because the latter may restrict immigrants' and refugees' human rights, increase the insecurity of residence for applicants and their families and present some discriminatory effects. It was recommended that member states invest in voluntary and long-term integration policies aimed at **overcoming legal and practical barriers to labour market insertion** and securing adequate entitlements to **health care services and housing** for a dignified quality of living by immigrants and beneficiaries of international protection.

On this basis, the Council of Europe has developed some **effective tools** for migrant inclusion which could be harnessed, in partnership with the EU, to support the implementation of the future Action Plan on Integration and Inclusion.

1. [The Intercultural cities programme and the Intercultural regions network](#)

Those programmes offer capacity-building, policy development and peer learning to local and regional authorities across Europe and beyond (already more than 140 cities and 10 regions have joined), based on the principles of the above-mentioned CM Rec (2015)¹ on intercultural integration. In the future, the programme will be extended to national authorities. The advantage of the programme is that it is based on a solid normative basis (international standards and research), deals with integration/inclusion policies in a comprehensive way, covering all policy areas such as education, economic development, public services, safety, urban planning etc., and is based on policy initiatives with a proven impact. To facilitate the design, implementation and evaluation of intercultural integration policies, the programme has piloted, impact-assessed and mainstreamed a range of methodologies, and is providing various other capacity-building tools such as policy briefs, training modules and a large good practice database.

2. [The Parliamentary Network on Diaspora Policies](#)³

The development of a plural identity and of cultural links with the country of origin builds the basis for successful integration of migrants. The challenge to preserve links with the country of origin is especially felt by the youth of second and third generation migrants. **Diaspora networks and associations**, supported by the authorities, have an important role to play in this regard.

The Parliamentary Network on Diaspora Policies has been a timely project implemented by the Parliamentary Assembly of the Council of Europe to enable representatives from different countries to come together and exchange ideas and examples of best practices of diaspora's engagement in society. It has brought together more than 200 members, of which 110 were MPs (members of national parliaments and/or PACE members) from 25 countries and 61 representatives of diaspora associations from 26 countries. The network has mainly focused its work on exchanges and cooperation with members of parliaments, diaspora associations, and state institutions from the countries of origin and host countries of migrants, with the aim of building inclusive societies through the introduction and implementation of national diaspora policies.

3. [The Linguistic Integration of Adult Migrants tool](#)

Language proficiency is an increasingly important component of the integration policies, adding to the "civic" dimension (ways of life and values) of integration. The framing of these policies (tests, programmes, agreements, courses or contracts), shouldn't be used as an excuse to limit or restrict family reunification and permanent settlement in the receiving country, and thus pose human rights challenges, but should help the linguistic integration of migrants. In this spirit, CoE is developing the LIAM tool.

- **The Linguistic Integration of Adult Migrants (LIAM)** project seeks to facilitate the integration of migrants in civil society and to promote social cohesion, in keeping with the Council of Europe's core values. It draws on the tools, instruments and other resources developed by the Council of Europe

³ <https://pace.coe.int/en/pages/network-diaspora>

over several decades in the field of learning/teaching languages, most recently the CEFR Companion volume which broadens the scope of language education and reflects academic and societal developments since the publication of the Common European Framework of Reference for Languages (CEFR) and updates the 2001 version. Under the LIAM project, supports have been developed for policy makers, providers of language courses, and those in charge of testing migrants' language competences. The resources developed by the LIAM project focus on language policy and its development, language learning programmes for adult migrants, and the assessment of learning outcomes. They are intended to help member states to meet the specific needs of adult migrants. Bearing in mind that integration is a two-way process, they are also designed to serve the Council of Europe's wider goals: social cohesion and full participation in the democratic process.

- The first draft of the **LASLLIAM (Literacy and Second Language Learning for the Linguistic Integration of Adult Migrants)** reference guide has been produced and will be validated by educators specialised on literacy teaching to adult migrants. LASLLIAM's general purpose is to present a reference guide for stakeholders involved in education provision for non-literate and low literate adult migrants. It aims to support language educators, curriculum designers and language policy makers in their endeavour to design, implement, evaluate and improve curricula tailored to the specific needs of the target learners.
- Based on earlier co-operation related to LIAM it is foreseen to develop a **guide for teaching refugee children** in the language of the receiving country. A group of experts is to prepare a feasibility study and a proposal for such guidelines.

4. The European Qualifications Passport for Refugees

Enabling refugees to make use of the qualifications they already have, whether for work or for further study, is important in reducing the pain of the refugee experience. Refugees are given the opportunity to use and develop their competences, which is of advantage to their host countries and will be of great importance to rebuilding their home countries if and when they are able to return home. Based on the Article VII of the Convention on the Recognition of Qualifications concerning Higher Education in the European Region (Lisbon Recognition Convention, ETS 165)⁴, which provides for the recognition of qualifications of refugees, internally displaced persons and persons in a refugee-like situation, the European Qualifications Passport for Refugees (EQPR) is a **specialty developed format and assessment scheme for refugees**, even for those who cannot fully document their qualifications. The document provides an assessment of the higher education qualifications, based on available documentation and a structured interview (face-to-face or online interview). It also presents information on the applicant's work experience and language proficiency. The document provides reliable information for integration and progression towards employment and admission to further studies. The standard format of the EQPR allows its **portability and its use across borders** in the case its holder moves from one country to another and, thus may remove the need for subsequent host countries to carry out a new assessment, which will result in saving time and efforts for both refugees and host countries but also in saving financial resources necessary in such assessments⁵.

5. Promoting child-friendly approaches in the area of migration

In order to protect the rights of children on the move and promote their integration, the Council of Europe has been **guiding member states in taking a co-ordinated child rights-based approach** to tackle this challenge.

⁴ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/165>

⁵ Partners include the ministries of education of Greece, Italy and Norway, ministry of Interior of France, Governments of Flanders (Belgium), Georgia and Monaco, qualification recognition centres in Armenia, Bosnia and Herzegovina, Canada, France, Germany, Greece, Italy, the Netherlands, Norway, Romania and the UK, the Conference of University Rectors of Italy and UNHCR.

First, the Council of Europe adopted common standards through the **Recommendation CM/Rec(2008)4 of the Committee of Ministers on strengthening the integration of children of migrants and of immigrant background**, which sets the basic principles to be followed in order to improve the integration and inclusion of children in migration. It also includes specific measures to be taken by states to address the impact of discrimination on the integration of children. Some of these measures include:

- Facilitating and enhancing the **language** development of children, to acquire the required proficiency in the language of instructions;
- Proper recruitment and **training of professionals** working with migrant children, to recognise their needs;
- Promotion of an atmosphere of **hospitality**, tolerance and respect for diversity through education policies;
- Ensuring that migrant children are fully integrated into the national **educational** system as quickly as possible and identifying and addressing the learning needs of each child;
- Supporting and strengthening the **parental** role of migrant parents and parents of immigrant background; and
- Facilitating transition from school to the labour market.

A compilation on **Promoting child-friendly approaches in the area of migration – Standards, guidance and current practices** was prepared to bring together international and European standards on child-friendly practices in the context of migration, with real-life illustrations of the kinds of initiatives, programmes and procedures that serve to implement these standards. Its purpose is to share existing knowledge on how migration-related processes can integrate a child-friendly approach and to give guidance for states and civil society on how best to incorporate child-friendly practices in the migration process. It addresses a wide range of issues, including the standards that must be applied to the child's registration and age determination, the child's treatment in the migration decision-making process and measures that promote their rights to protection, family care and education.

The Council of Europe has undertaken child participation consultation processes involving migrant children when developing tools for professionals on **how to provide child friendly information**, or in standard setting activities. A concrete example is the report "**We are children, hear us out! Children speak out about age assessment**" which reflects the views of unaccompanied children who had experienced age assessment in the context of migration and asylum procedures in four countries.

In the area of **age assessment** for children in migration, a guide for policy makers on "**Age assessment for children in migration: a human rights-based approach**" was also published. The Steering Committee for the Rights of the Child (CDENF), which acts as a pan European platform for regular exchanges of knowledge, good practices and experiences, also continues its work on the **preparation of standards on human rights-based age assessment procedures for children in migration** aimed at policy makers and professionals, their finalisation is being impacted by the context of the online negotiations.

Several handbooks on the rights and protection of children on the move have been also prepared by the Council of Europe, in particular a **handbook for practitioners** on access to rights, child-friendly information and procedures for children in migration with a view to reinforcing children's access to rights across the Council of Europe.

6. [Integration of young people](#)

- **Recommendation CM/Rec(2019)4 of the Committee of Ministers to member States on supporting young refugees in transition to adulthood** addresses social exclusion and violation of human rights of young refugees reaching the age limit of 18 years old when they are no longer protected by of the United Nations Convention on the Rights of the Child. The recommendation proposes a list of measures to be taken by the member states to provide additional support to young refugees in

transition to adulthood. It also emphasises the aim of youth policy in providing opportunities for all young people, without discrimination or preconditions and on an equal basis to participate fully in all aspects of society. Youth work and non-formal education play an essential role in building competences of active citizenship and participation which are crucial for social inclusion.

- **Recommendation CM/Rec(2015)3 on Access of Young People from Disadvantaged Neighbourhoods to Social Rights**, proposes specific policies and measures to facilitate access for young people to social rights at local level and combating discrimination, exclusion and violence to which they are often exposed. Many of these young people are of migrant and refugee background. The principles of the recommendation could be the basis for youth work and action-driven projects in such neighbourhoods. Children and young people account for the majority of the populations of migrant background.
- **Youth work and non-formal education for social inclusion** : the youth sector of the Council of Europe has piloted and supported capacity-building of youth workers with migrant background and young refugees in developing local projects for social inclusion and access to rights – as in, for example, the project **Youth.Together**. The project on Social Inclusion of Young Refugees was developed with refugee and youth organisations in order to reduce the risks of social exclusion and violence to which young refugees, especially minors in transition to adulthood are exposed.
- **Human rights education and intercultural education**: Migrants and “hosting communities”, especially children and young people, must have more opportunities to learn and experience human rights education and intercultural learning. These competences for democratic citizenship and respect for diversity are acknowledged as fundamental to create a positive approach to inclusion. The manuals **Compass** (on human rights education with young people) and the **Education Pack All Different-All Equal** support youth workers and education professionals to combat discrimination, support inclusion of everyone and inculcate a culture of human rights. Both manuals can be the basis for education and training projects with partners at national and local level.

III. Conventional and other standards on integration and inclusion

1. The European Convention of Human Rights and the Court’s case law

Member States of the European Union are all signatory states of the European Convention of Human Rights (ECHR) and thus bound to the standards developed through the case-law of the Court in respect migrant’s integration policies. These are mainly to be found in **articles 8 - the right to respect for private and family life and article 14 – prohibition of discrimination**.

- **Right to respect private and family life** (article 8): even though the Convention does not stipulate the right of entry to a Council of Europe member state for immigrants’ family members per se, the European Court of Human Rights (ECtHR) case law has provided protection when disproportionate restrictions in the context of **deportation/expulsion** result in a **break-up of family unity**, and in cases of **refusal of entry for the purposes of family reunification**.

Since the 2000 case *Boultif v. Switzerland*⁶, the European Court of Human Rights has developed a set of criteria when assessing such applications, some of which are linked to the **degree of integration of the individual** in the receiving state, in particular: the duration of the individual’s stay; his/her family situation; and the difficulties that would be faced by the spouse in the country of origin, thus assessing the difficulty of the spouse’s re-integration. Two additional factors were added by the Court on the

⁶ *Boultif v. Switzerland*, Judgment of 5 October 2000, Application No. 54273/00.

basis of the 2005 *Üner v. the Netherlands* judgment⁷ first, the **best interests and well-being of the children** with regard to difficulties that children are likely to encounter in a country to which the applicant is likely to be expelled; and second, the **solidity of social, cultural and family ties** with the host country and the country of destination, making **integration an express criterion** to be applied by the courts. The European Court of Human Rights considers a number of additional factors that are relevant to the integration of immigrants, such as: (attempts to gain) **acquisition of nationality**⁸ **links to the country of nationality**⁹, **language**¹⁰ and **labour-market integration**¹¹.

Prohibition of discrimination (Article 14): this provision provides for protection from discrimination in the enjoyment of the rights and freedoms safeguarded by the Convention on any ground, such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. The issue of non-discrimination in relation to integration was crucial in *Biao v. Denmark*¹², where the Court called on Denmark to support and provide evidence for **justification of the differential treatment** that would not amount to discrimination among nationals depending on national and ethnic origin. The Court's indirect discrimination case law has gone beyond an assessment of the specific circumstances of an applicant in a case of family formation. Increasingly, the **legitimacy of national migration policies** is scrutinised.

Protection against hate crime (Articles 2 and 3: Right to life and prohibition of torture): Cases of hate crime against migrants also contribute to some extent to integration of migrants in a society, the Court recalling the need to constantly reaffirm the condemnation by society of racism and ethnic hatred and to preserve the confidence of minorities in the ability of the authorities to protect them from the threat of racist violence¹³.

Reception of asylum seekers (Article 3): The ECtHR found under Article 3 ECHR that a state's responsibility may be engaged when a person totally dependent on public aid would be confronted with the indifference of the authorities and find himself in a situation of deprivation or need so serious that it would be incompatible with human dignity.¹⁴ Although these cases concern asylum seekers and do not impose an obligation on State parties in terms of long-term integration in a society, they do underline the minimum threshold to be respected in terms of access to decent housing and reception facilities to asylum seekers, thus contributing to further inclusion of a society.

2. [The European Social Charter and its interpretation by the European Committee of Social Rights](#)

Complementary to the ECHR, the European Social Charter and the case-law developed by the European Committee of Social Rights (ESCR) which assesses whether state parties are compliant, in both law and practice, with the provisions of the European Social Charter, also bounds all the EU

⁷ *Üner v. the Netherlands*, Judgment of 5 July 2005, Application No. 46410/99.

⁸ *Boughanemi v. France*, Judgment of 24 April 1996, Application No. 22070/93;

Kaya v. Germany, Judgment of 28 June 2007, Application No. 31753/02.

⁹ *Baghli v. France*, Judgment of 30 November 1999, Application No. 34374/97;

Üner v. Netherlands, Judgment of 5 July 2005, Application No. 46410/99.

¹⁰ *Kaya v. Germany*, Judgment of 28 June 2007, Application No. 31753/02;

Beldjoudi v. France, 13 July 1995, Application No. 19465/92.

¹¹ *Silvenko v. Latvia*, Judgment of 9 October 2003, Application No. 48321/99.

¹² *Biao v. Denmark* (Grand Chamber), Judgment of 24 May 2016, Application No. 38590/10.

¹³ *Sakir v Greece*, judgment of 24 March 2016 §§ 60-64,

Gjikondi and Others v. Greece, judgment of 21 December 2017, §§110-121

¹⁴ *MSS v. Belgium and Greece*, GC, judgment of 21 January 2011 §254 ff, *N.H. and Others v France*, judgment of 2 July 2020, §160 ff.

member States. The **European social rights model** (and the European Social Charter) is a central factor in social justice, deep security and social and democratic sustainability of which **integration and social inclusion are an integral part**¹⁵. It increasingly **contributes to promoting the social rights of migrants and refugees, and therefore helps their integration and inclusion** in the societies of the CoE State parties, which are also members of the EU. In that context, EU institutions are encouraged to take full account of the standards and the country-specific findings in the framework of its own work and procedures including now in the Recovery and Resilience Plans, and when and as appropriate the European Semester.

The Charter guarantees the following rights to foreign nationals¹⁶:

- **Right of migrant workers and their families to protection and assistance** (art 19): this provision specifically requires State parties to take positive measures to protect migrant workers. In its paragraph 6, the **right to family reunion** of lawfully residing migrants is protected. This right has been **extensively developed by the ESCR** while examining member countries' restrictions on family reunification. It namely found violations to the Charter where pre-departure or in-country integration requirements –such as mandatory language and civic integration tests abroad– for family members must be satisfied in order to be allowed to enter the country or to be granted a residence permit and when a waiting period of more than one year applied¹⁷.
- **Right to housing** in Article 16 (housing of families), Article 19.4 (housing for migrant workers) and Article 31 (prevent homelessness, promote access to housing of an adequate standard and accessible to the poorest): The **right to shelter** is extended to all foreigners, even when non-lawful resident in order not to deprive them of their rights linked to life and dignity under the Charter.
- **Right to health and to social and medical assistance** (Article 11 and Article 13): implies access to health care by everyone without discrimination, and that healthcare must be effective and affordable to everyone, and that vulnerable groups at particularly high risk, such as homeless persons, and persons with an irregular migration status must be adequately protected.
- **Right of children to social, legal and economic protection** (Article 17): All children, including in an irregular situation and non-accompanied minors must have access to care and assistance, including medical assistance, appropriate accommodation and education. Particular attention is attached to children belonging to minorities and vulnerable groups, such as children seeking asylum, and refugees. The ECSR considers that that the detention of children on the basis of their immigration status or that of their parents' is contrary to the best interests of the child.
- **Right to work and protection of migrant workers** (Article 1 and 19): granted only to migrants lawfully resident and national of other contracting parties, the right to work ensures protection from discrimination, prohibition of slavery and forced labour and right to adequate work conditions. The protection of Article 19 covers only the migrant workers and their family members, nationals of other contracting parties, legally established in their territory. It covers right to immediate assistance, legal aid, information, equality as regards taxes, contributions, education, guarantees regarding deportation, education.

¹⁵ In this context, the Steering Committee for Human Rights (CDDH) called on EU institutions to prompt member states that have not yet done so to ratify the revised Charter and to accept as many of the Charter provisions as possible (because of the a la carte approach), preferably all, and the collective complaints procedure under the Charter. As similarly proposed by the CDDH, the European Commission (and other EU institutions) have been asked to examine and start taking the steps required for EU accession to the Charter.

¹⁶ The protection of the Charter has been extended to irregularly staying foreigners when a fundamental right closely connected to human dignity is at stake.

¹⁷ European Committee of Social Rights, Conclusions XVIII-1 – Greece – Article 19-6, document number XVIII 1/def/GRC/19/6/EN, 2006.

3. European Commission against Racism and Intolerance - ECRI

Over the last few decades, the European Commission against Racism and Intolerance (ECRI) has drafted and adopted 16 general policy recommendations (GPRs), in addition to its country-specific recommendations that can be found in its monitoring reports. In the drawing-up of its recommendations, ECRI takes due account of the case-law of the European Court of Human Rights and of the work of the European Committee of Social Rights. As regards integration and inclusion, there are several relevant GPRs, including notably GPR No. 16 on Safeguarding irregularly present migrants from discrimination, GPR No. 10 on Combatting racism and racial discrimination in and through school education and GPR No. 14 on Combatting racism and racial discrimination in employment. The GPRs are supplemented by concrete country-specific recommendations issued in ECRI monitoring reports.

GPR No. 16 on Safeguarding **irregularly present migrants** from discrimination has been adopted in March 2016. One of the main underlying principles contained in GPR No. 16 is the need for States to set up so-called firewalls to allow social service providers, such as schools and hospitals, to receive irregular migrants without sharing their personal data with, or indeed revealing their presence on the territory of the State to immigration control and enforcement authorities. As regards education specifically, irregular migrant children should, according to ECRI, have access to pre-school, primary and secondary education on the same terms as nationals of the State concerned.

In its recent (sixth monitoring cycle, started in 2019) reports, ECRI has found positive examples of firewalls, such as legislation which allows schools, Kindergartens and nurseries to enrol irregularly present children without informing immigration control and enforcement authorities thereof. Further, there is a legal possibility for such irregularly present school children, who have resided and attended school in their host country without interruption for a certain number of years, to obtain a temporary residence permit for themselves, as well as for their parents.

In its fifth and sixth monitoring cycles, ECRI has furthermore examined legislation and practices related to integration and inclusion of **regularly present migrants**, including asylum seekers. It has made specific recommendations on the drawing-up, updating and evaluation of national integration action plans or programmes. This may concern the need for measurable targets, clear timelines and adequate funding. In the area of education, this may relate to measures aimed at increasing the share of children with migration backgrounds that attend pre-school education. In order to achieve a better participation in public life, ECRI has also recommended that integration courses for migrants do not only meet their language learning needs, but also include the promotion cultural diversity. In the field of employment, ECRI has recommended that where necessary the authorities, in cooperation with employer and employee organisations, conduct a needs analysis in sectors with a high workforce shortage and develop tailored apprenticeship programmes in these areas for all migrants, including asylum seekers.

ECRI's monitoring has shown that some countries have been quite successful in integrating refugees and other persons with a migrant background in their workforce, in some instances reaching a rate of 10% of public sector employees having a migrant background, with the share reaching over 30 % in some sectors, such as municipal police forces. Having a functioning system for recognition of foreign diploma is another contributing factor for achieving good employment rates among migrants.

4. List of Key Council of Europe standards related to migrant rights and integration

- European Convention on Human Rights
- European Social Charter

- ECRI General Policy Recommendation No. 16 on Safeguarding irregularly present migrants from discrimination ;
- Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention);
- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse;
- Promoting child-friendly approaches in the area of migration – Standards, guidance and current practices
- Recommendation CM/Rec(2019)4 of the Committee of Ministers to member States on supporting young refugees in transition to adulthood (adopted on 24 April 2019)
- Recommendation CM/Rec(2019)11 of the Committee of Ministers to member states on effective guardianship for unaccompanied and separated children in the context of migration
- Recommendation CM/Rec(2018)4 of the Committee of Ministers to member States on the participation of citizens in local public life (adopted on 21 March 2018)
- Guidelines of the Committee of Ministers to member States on the protection and promotion of Human rights in culturally diverse societies (adopted on 2 March 2016)
- Recommendation CM/Rec(2015)1 of the Committee of Ministers to member States on intercultural integration
- Recommendation CM/Rec(2011)2 of the Committee of Ministers on validating migrants' skills
- Recommendation CM/Rec(2011)1 of the Committee of Ministers on interaction between migrants and receiving societies
- Recommendation CM/Rec(2008)10 of the Committee of Ministers on improving access of migrants and persons of immigrant background to employment
- Recommendation CM/Rec(2008)4 of the Committee of Ministers on strengthening the integration of children of migrants and of immigrant background
- Recommendation CM/Rec(2007)10 of the Committee of Ministers to member states on co-development and migrants working for development in their countries of origin
- Recommendation CM/Rec(2007)9 of the Committee of Ministers to member states on life projects for unaccompanied migrant minors
- Recommendation CM/Rec(2007)2 of the Committee of Ministers on media pluralism and diversity of media content
- Recommendation (2006)18 of the Committee of Ministers of the Council of Europe on health services in a multicultural society
- Recommendation Rec(2006)9 of the Committee of Ministers to member states on the admission, rights and obligations of migrant students and co-operation with countries of origin
- Recommendation Rec(2004)2 of the Committee of Ministers to member states on the access of non-nationals to employment in the public sector
- Recommendation of the Committee of Ministers to member States concerning women migrants
- Common European Framework of Reference for Languages (CEFR), Council of Europe 2001
- Common European Framework of Reference for Languages: Learning, teaching, assessment - Companion Volume, Council of Europe 2020

Resolutions from the Parliamentary Assembly of the Council of Europe

- Resolution 1973(2014) on Integration tests: helping or hindering integration?
- Resolution 2043 (2015) on "Democratic participation for migrant diasporas"
- Resolution 2124 (2016) on "Educational and cultural networks of communities living abroad".;
- Resolution 2175 (2017) on "Migration as an opportunity for European development"
- "Resolution 2176(2017) on Integration of refugees in times of critical pressure: learning from recent experience and examples of best practice
- Resolution 2238 (2018) on Radicalisation of migrants and diaspora communities in Europe
- Resolution 2244 (2018) on Migration from a gender perspective: empowering women as key actors for integration
- Resolution 2310 (2019) on "Labour migration from eastern Europe and its impact on socio-demographic processes in these countries"

Resolutions and other texts adopted by the Congress of Local and Regional Authorities

- Recommendation 437 (2019) on "The role of local and regional governments in protecting internally displaced persons (IDPs)"
- Resolution 431 (2018), "Voting rights at local level as an element of successful long-term integration of migrants and IDPs in Europe's municipalities and regions"
- Recommendation 428 (2018) on the role of the role and responsibilities of local and regional authorities concerning unaccompanied refugee children
- Resolution 411 (2017) on the role of local and regional authorities in the reception and integration of refugees and migrants
- Resolution 358(2013), "Integration through self-employment: promoting migrant entrepreneurship in European municipalities and Resolution 362 (2013) on "Migrants' access to regional labour markets"
- Human Rights Handbook for Local and Regional Authorities 2019, Vol. 1, "Fighting against discrimination" (Section on Refugees, Asylum seekers, Migrants and IDPs, pp 25-77).
- Commissioner of Human Rights of the Council of Europe Issue paper and recommendations : Time for Europe to get migrant integration right aims at turning CoE standards into concrete outcomes for migrants.