

Thomas Huddleston
Migration Policy Group

SERBIA

A MIPEX assessment





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INTRODUCTION

WHAT IS THE MIGRANT INTEGRATION POLICY INDEX?

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

The Migrant Integration Policy Index (MIPEX) is a reference guide and fully interactive tool to assess, compare and improve integration policy. It measures integration policies in 31 countries in Europe and North America in order to provide a view of integration policies across a broad range of differing environments. MIPEX was developed in these countries by British Council and the Migration Policy Group. Using 148 policy indicators, MIPEX establishes the extent to which all residents are legally entitled to equal rights and responsibilities as well as to any support that addresses their specific needs to make equal opportunities a reality.

USES FOR POLICYMAKING

Policymakers and civil society obtain a quick reference guide to assess the impact of their policy changes and get an overall impression of their country's strengths and weaknesses. This allows governments to see the effects of their approach and policy changes. It highlights policies that score well and possible areas for improvement. They can compare these strengths and weaknesses with other countries, either across your region, Europe and North America, or all the countries at once. They can find inspiration for policies and learn lessons from their objectives, implementation, and results. Since policies are one factor influencing integration, MIPEX can be used as a starting point to evaluate how policy changes can improve integration in practice. Its research findings can be complemented with further information from official statistics, budgets, project and scientific evaluations, government reporting, and evidence from NGOs, courts and migrants.

WHAT ARE THE HIGHEST STANDARDS USED BY MIPEX?

MIPEX demonstrates how countries can do better in creating the legal environment in which immigrants contribute to a country's well-being, where they have equal access to employment and education, live in security with their families, become active citizens and are protected against discrimination. For each of the 7 policy areas: labour market mobility, family reunion, education, political participation, long-term residence, access to nationality and anti-discrimination, MIPEX identifies the highest European and international standards aimed at achieving equal rights, responsibilities and opportunities for all residents. These standards establish a basic rule-of-law approach, which have helped to improve policies in European Union and Council of Europe Member States. Where only minimum standards exist, policy recommendations are used from international research networks and civil society.

HOW DOES MIPEX OBTAIN ITS SCORES?

The 148 policy indicators have been designed to benchmark current laws and policies against the highest standards through consultations with top comparative researchers as well as international and European institutions. A policy indicator is a question relating to a specific policy component of one of the 7 policy areas. For each answer, there are 3 options. The maximum of 3 points is awarded when policies meet the highest standards for equal treatment. A score of 2 is given when policies lie halfway to the highest standards, and a score of 1 is given when they are furthest from the highest standards. Where a country has no policies on a specific indicator, it is given a default value of 1.

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

MIPEX KEY LEGEND (0-100)

0	Critically unfavourable for integration
1-20	Unfavourable
21-40	Slightly unfavourable
41-59	Halfway favourable
60-79	Slightly favourable
80-100	Favourable for integration

WHO GATHERED THE DATA?

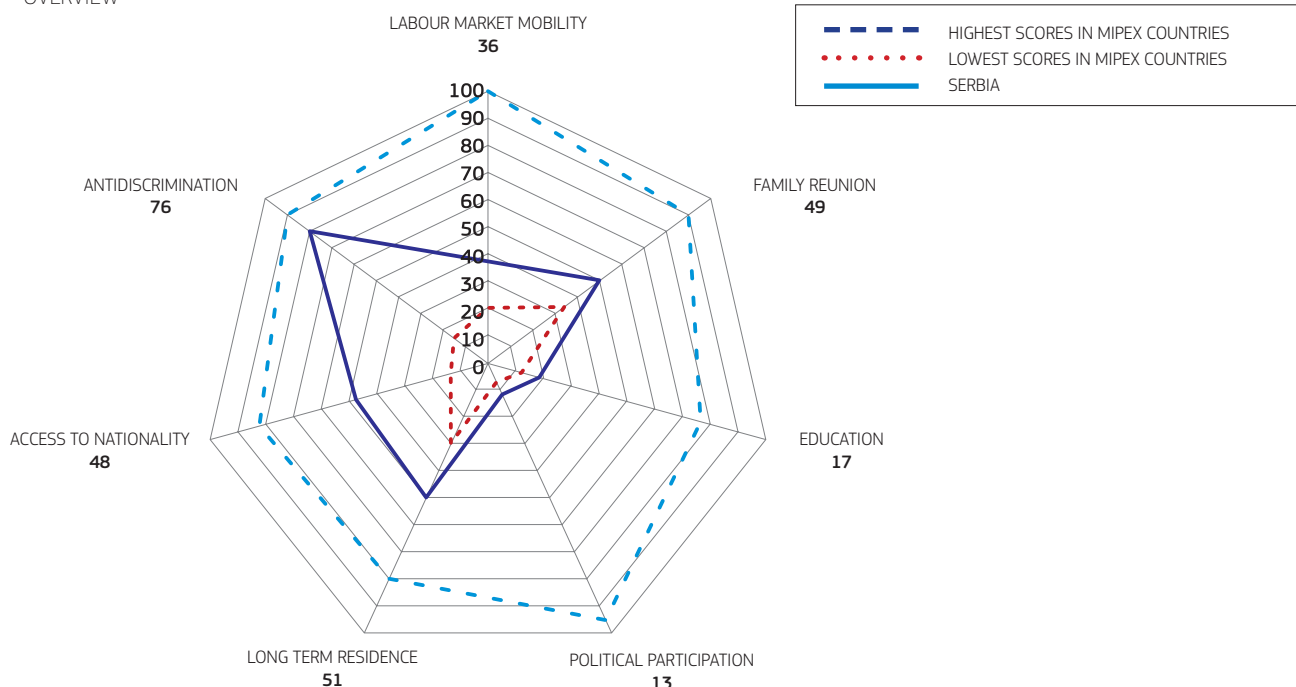
Unlike indexes based on expert opinion, MIPEX is based on public laws, policies and research. In every country, independent experts in migration law, education and anti-discrimination, filled out the score for each indicator based on the country's publically available documents as of 1 January 2012. All scores were then peer-reviewed by a second expert. Group 484 MIPEX national team: **Tanja Pavlov**, PhD, Group 484 Centre for Migration Director and **Vladimir Grecic**, PhD, Institute for International Policy and Economics have covered the topic of Labor Market Mobility. The topics of Family Reunion for third country nationals and Political Participation and Long Term Residence have been researched by **Vladimir Petronijevic**, Executive Director Group 484 and **Miroslava Jelacic**, Legal Analyst Group 484 Centre for Migration. The topic of Education have been examined by **Danijela Petrovic**, PhD, Faculty of Philosophy and **Tanja Pavlov**. Discrimination has been researched by **Milan Antonijevic**, YUCOM Executive Director and **Vladimir Petronijevic**.

The Migration Policy Group moderated any discrepancies and checked the completed questionnaires for consistency across strands and countries over time. Migration Policy Group wrote up this country report based on its official scoring and analysis of the questionnaire results, following the established MIPEX procedure. Comparisons are made with the average practices in most MIPEX countries and EU Member States. Special attention was paid to the EU's 'new' Member States and new immigration countries, particularly their recent progress in establishing basic procedures and statuses in this field.

SERBIA

A MIPEX ASSESSMENT

OVERVIEW



As Serbia's borders have changed over the past two decades, conflicts have produced thousands of refugees and internally displaced persons. Besides these large groups, foreign family members of Serbian citizens and foreign workers have arrived in small but increasing numbers from countries in the region, the EU, and China. Serbia is faced with a constant increase of foreigners who intend to seek asylum in the country. Serbia has ratified the major UN Conventions that guarantee the rights of all persons including migrants, such as both UN Conventions, the Conventions on the Elimination of All Forms of Racial Discrimination, the Elimination of All Forms of Discrimination Against Women, and for the Rights of the Child etc. The state has ratified the two ILO Conventions specifically on migrant workers, signed the UN Migrants' Rights Convention, but not signed the relevant Council of Europe Conventions on the legal status of migrant workers, nationality, or participation of foreigners in public life at local level.

With an overall MIPEX score of 41/100, Serbia's policies are barely halfway favourable for societal integration. Newcomers face slightly more obstacles than opportunities to participate in society. Serbia ranks alongside other very new and small countries of immigration in the region, such as BG and HU. Serbia's anti-discrimination legislation has contributed the most to integration, as is the case in other Central European countries with similar laws. People are not allowed to commit ethnic, racial, religious or nationality discrimination in many areas of life, while potential victims can seek justice through slightly favourable enforcement mechanisms. Also, foreigners can benefit from comparably inclusive conditions to become Serbian nationals. Still, the state is rather ex lege discretionary in its procedures for naturalisation, long-term residence, and family reunion, as happens in many Central European countries. In Serbia, temporary foreign workers, families, and permanent residents miss out on key rights guaranteed in other MIPEX countries due to EU law (e.g. Single Residence and Work Permit Directive, Family Reunion Directive, Long-Term Residence Directive). Furthermore, most immigrants receive hardly any extra support to get further training, help their children in school, or participate in political life.

INTERNATIONAL MIGRATION STATISTICS ON SERBIA¹

Net migration	
Immigration flow	
Three largest countries of origin	China,Romania, Macedonia (2011)
Foreign-born population ²	525,388
Foreign-born as part of population ³	5.3%
Women as part of foreign-born population ⁴	56.7%
Number of family permits per year	10347
Number of work permits per year	8257
Number of student permits per year	979
Number of humanitarian permits per year	2

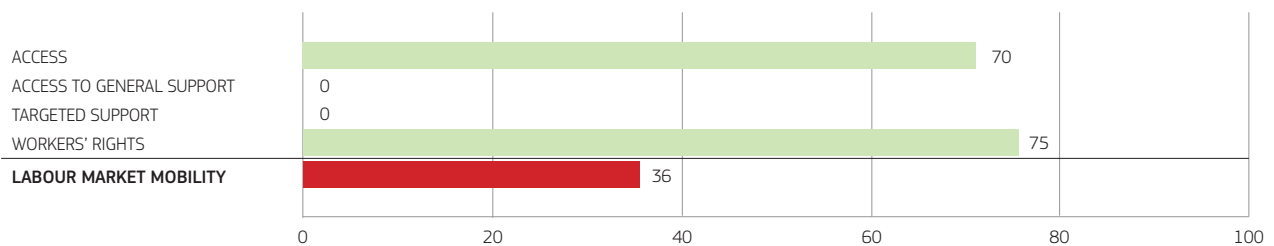
¹ The data on number of family, work, student and humanitarian permits have been provided by Ministry of Interior, Directorate of the Border Police, Section for Foreigners, 2012.

² United Nations, Department of Economic and Social Affairs, Population Division (2011). Trends in International Migrant Stock: Migrants by Age and Sex (United Nations database, POP/DB/MIG/Stock/Rev.2011).

³ ibid.

⁴ ibid.

LABOUR MARKET MOBILITY

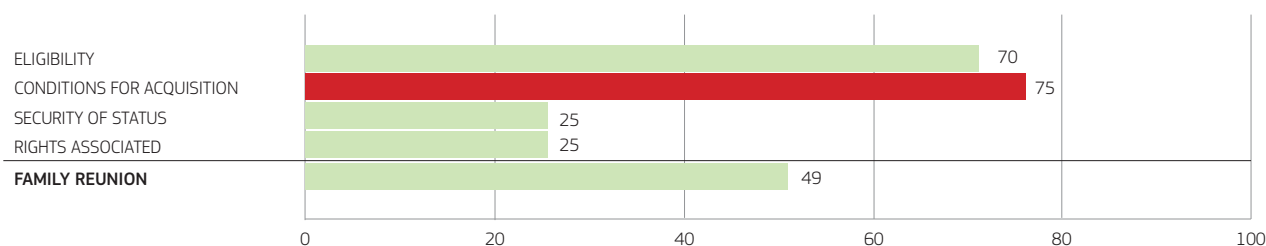


Foreign workers have slightly limited opportunities on the labour market in Serbia—more limited than in most Central European countries. Foreign workers have the right to work in any private sector job, some public sector positions, and immediate access to self-employment, as in most European countries. All legal workers are entitled to the same working conditions, social security, and access to trade unions. But in Serbia, only permanent residents have the same access as Serbian nationals to the labour market or to general support measures. Although foreigners with temporary residence can apply to the National Employment Service, the priority is given to the nationals and permanent residents (e.g. access to the active measures for employment, adult education, vocational training). Procedures to recognise foreign degrees are complicated for university commissions, missing for many professions, and twice as expensive for foreigners. Targeted support or information campaigns are also missing in Serbia and most new countries of immigration.

Opening labour market access in new countries of immigration

The most recent MIPEX study found that many new immigration countries are increasingly opening equal access to the labour market to all legal temporary residents. The major countries of immigration in Southern Europe (Italy, Portugal, Spain) grant newcomers nearly equal opportunities to change jobs and careers and equal access to general support. Greece and Spain in 2009 granted the automatic right to a work permit for residing families of migrant workers, with the aim to discourage irregular work and promote their self-sufficiency and economic contribution. Poland in 2009 and Hungary in 2010 granted all non-EU temporary residents the right to self-employment.

FAMILY REUNION

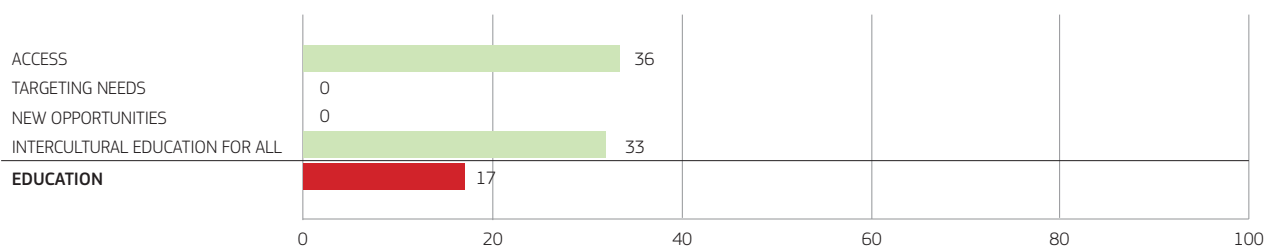


Although non-EU families are often eligible to reunite in Serbia and other Central European countries, the procedure, grounds, and access to rights in Serbia are more limited than in the other MIPEX countries. Most newcomers can quickly apply for their spouse, minor children, dependent adult children, or ailing parents. Those who meet the slightly favourable requirements are still insecure about their families' future. According to the law, authorities may reject their application or withdraw the permit without considering their family's personal circumstances. For example, the authorities will not extend temporary residence based on the fact that there are no links with the country of origin. Accounting for family's personal circumstances is required in the majority of EU countries. Foreigners' family members only obtain renewable temporary permits with limited socio-economic rights, a situation which is very rare among MIPEX countries. Unlike in most of these countries, family members are not entitled to an independent status, even if their sponsor dies or is physically or emotionally abusive. Instead, they must qualify for permanent residence or another type of permit (e.g. work, study, marriage to a Serbian national).

Using legal standards to establish a basic family reunion procedure

Under the EU Family Reunion Directive 2003/86/EC, non-EU family members are entitled to a residence permit of the same duration as that of sponsor (temporary or permanent), equal access to education, employment and vocational training, and entitlement to an independent status. New countries of immigration, including in Central and Southern Europe, have made some of the greatest recent progress on family reunion, partly due to the EU Directive. For example, the Czech Republic had no specific policy for family reunion before transposition of the Directive. Since 1 January 2000, the migration law clarified that authorities must grant families a permit of equal duration as their sponsor's and take into account the impact of a rejection on a migrant's private and family life as well as the best interest of the child. Slovenia's 2011 Aliens Law opened application to temporary residents and broadened the definition of the family to registered or co-habiting partners, regardless of gender or sexual orientation. Bulgaria's 2012 Aliens Law broadened eligibility for minor and adult children and also introduced an independent status.

EDUCATION

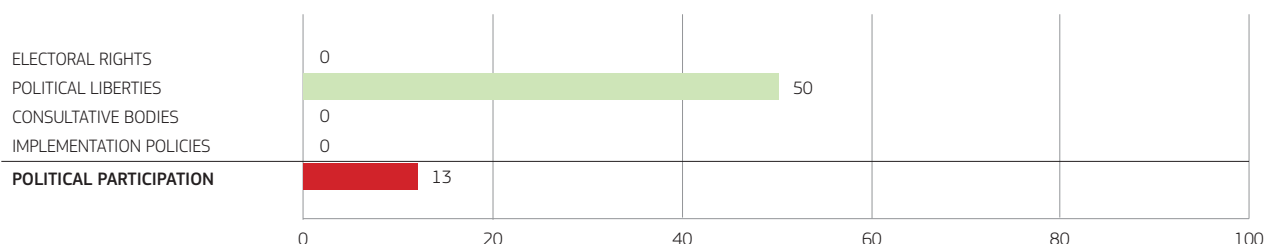


The education of immigrant children is an area of weakness for most MIPEX countries, especially for new countries of immigration like Serbia. All children, irrespective of their legal status, enjoy equal access to all levels of the school system and to whatever general support exists for disadvantaged students, in half of the MIPEX countries. Schools must integrate intercultural education throughout their curricula and materials and can modify up to 30% to reflect the composition of the local population. However, immigrant pupils are not entitled to an integration programme throughout their school career and across the country. Serbian schools are also missing out on the new opportunities that immigrants bring to the classroom. Teaching immigrant languages and cultures is limited to European students and rarely implemented in practice. For comparison, most new immigration countries in Southern and Central Europe provide additional tuition to master the official language and immigrants' home languages, specific funding or teachers for schools, and required teacher trainings on immigrants' needs.

Adapting schools in recent countries of immigration

Estonia provides all newcomer pupils with compulsory, continuous, and standardised support to learn Estonian as well as their own language and culture. Similarly in Czech law, language courses should be needs-based, professionally taught, and regularly evaluated, while mother tongue and cultures should be available. Czech teachers can integrate multicultural education into their curriculum through state-supported pedagogical materials and teacher trainings like the much-used information portal (www.czechkid.cz). Slovakia also recently introduced 'multicultural education' into its curriculum as well as intercultural education trainings for qualifying and working teachers.

POLITICAL PARTICIPATION

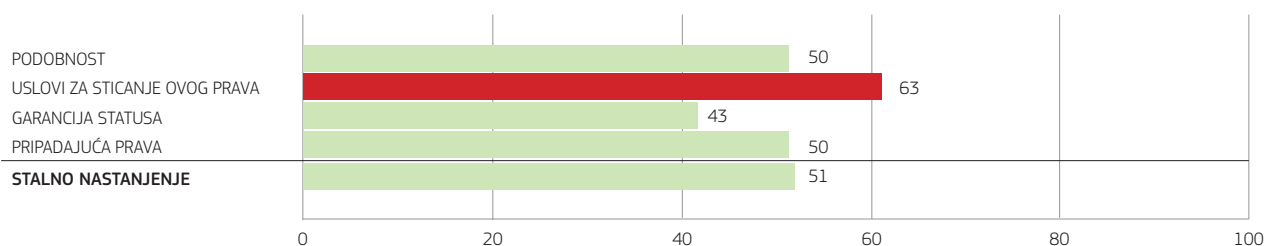


Political participation is an area of weakness for integration policy in Serbia and most new countries of immigration. If immigrants cannot become Serbian citizens, they are largely unable to inform and improve the policies that affect them daily. Besides the right to vote, foreigners are still denied key political liberties, as in a handful of Central European countries. They face additional paperwork to found their own associations and cannot join political parties. Furthermore, the government does not structurally finance these immigrant-run associations or consult them in national, regional, or local consultative bodies.

The participation of foreigners in public life at local level

Although policymakers increasingly list participation in public life as one key area of integration, opening political opportunities often takes time and significant reforms. New immigration countries in Central and Southern Europe have made progress. Several Central European countries have granted long-term residents the local right to vote (Czech Republic in 2001, Estonia and Slovenia in 2002) and to stand as candidates in elections (Lithuania in 2002 and Slovakia in 2003). Most countries have used a new European Integration Fund to support associations working on integration. Local and national authorities have started to dialogue and consult with associations of foreign residents. Examples range from Portugal and Spain to Ireland, Greece, Estonia, Latvia, and Poland. For instance, the Spanish Forum for the Social Integration of Immigrants has an independent chair and issues opinions or reports on any drafts affecting social integration. The Forum has the right to prepare reports, plans, programs on request or own initiative and to formulate its own proposals and recommendations. Members from immigrant-run associations participate extensively on reports and resolutions and secure much government consensus around their recommendations.

LONG-TERM RESIDENCE

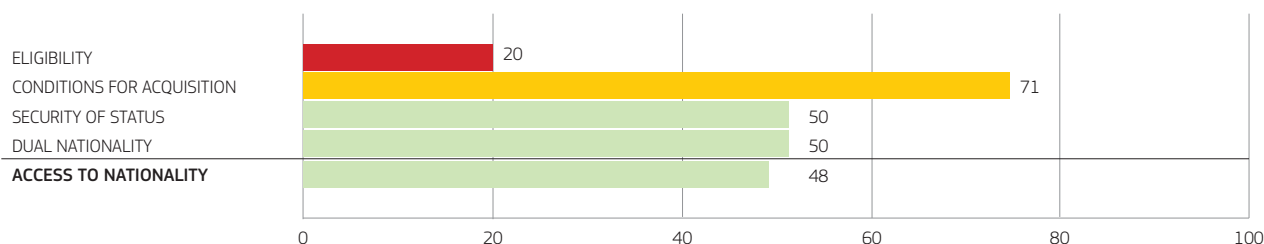


Slightly below EU legal standards and the European average, Serbia imposes several obstacles for permanent residents to enjoy equal opportunities in key areas of life. Most legal immigrants are eligible to apply for a permanent permit after five years' residence and under rather straightforward conditions, as in most Central European countries. State discretion is also common in the region, since applicants who meet the legal conditions can still be rejected on several vague grounds (e.g. public interest, public security, economic resources requirement). Successful applicants obtain permanent residence and equal access to employment. However, they have some of the weakest rights in Serbia compared to most MIPEX countries. Specifically, they do not have equal access to health care, unless their country of origin has signed international agreements. They face problems and higher fees to get their foreign diploma recognised. Also, specific protections against deportation do not exist for foreigners living in Serbia for decades, since childhood, or with children (instead, see countries like IT, PL, PT, RO, SI).

An entitlement to long-term residence

EU Member States agreed and implemented the EC long-term residence directive (2003/109/EC), with the common objective that the integration of long-term residents will promote economic and social cohesion. Since then, several new immigration countries introduced a long-term residence entitlement. For example, Estonia automatically gave the new status to residing non-nationals and set the residence duration for newcomers at the standard 5-years. Several like the Czech Republic, Latvia, and Spain developed additional fast-track schemes for former students. Portugal's 2007 law aimed to create a legal regime fostering legal immigration by opening long-term residence to nearly all categories of legal residents and protecting from deportation anyone born in the country, living there since childhood, or raising their children there.

ACCESS TO NATIONALITY

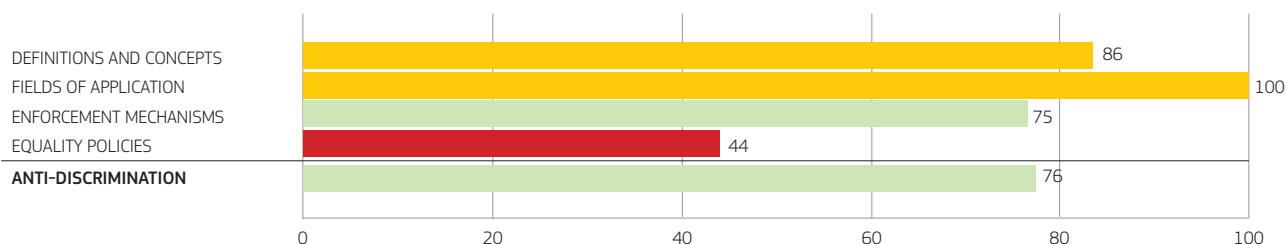


Immigrants' access to Serbian nationality is only halfway favourable for immigrant integration. Still, these policies rank as one of the country's relative strengths, scoring around the European average and far above others in the region. Naturalised immigrants enjoy basic protections against citizenship loss and statelessness as well as the same rights as all other Serbian citizens. Eligibility for nationality is the area of weakness in Serbia, as in many new countries of immigration. Although Serbian-born children benefit from facilitated naturalisation, they are not automatically entitled to Serbian nationality, as they would be in the majority of MIPEX countries. For foreigners born abroad, the long de facto qualifying periods for permanent residents or the spouses/partners of Serbians are around the European average. During these discretionary procedures, permanent residents face comparably few legal obstacles, apart from the renunciation requirement. Applicants must give up their previous nationality, unless it's impossible or they're stateless. Accepting dual nationality is now the trend in the majority of MIPEX countries (e.g. GR, HU, IT, RO, SK).

Accepting dual nationality and birthright citizenship

Dual nationality and some form of birthright citizenship are becoming the norm in most established countries of immigration across Europe. Even if these trends are little supported by European cooperation, the past decade has seen significant reforms in Germany, Belgium, Sweden, Finland, Portugal, Luxembourg, and, until recently, Greece. Since the last edition of MIPEX in 2010, similar citizenship reform bills or laws have been introduced in Bulgaria, Czech Republic, Denmark, Italy, and Poland.

ANTI-DISCRIMINATION



Like neighbouring BG, HU, and RO, Serbia has enacted broad anti-discrimination laws, which all residents and newcomers can better use to secure more equal opportunities in practice. Serbia's 2009 Law on the Prohibition of Discrimination applied EU legal standards (2000/43/EC and 2000/78/EC) and involved significant domestic and international pressure. Similar to the majority of MIPEX countries, Serbia protects people against most forms of discrimination in all areas of public life. People of different racial or ethnic backgrounds, religions, or nationalities should be treated equally in all areas, though with weaker protections for multiple discrimination (see AT, BG, UK). Serbia also has slightly favourable mechanisms to enforce the law. Though the procedure remains long and complex, victims can benefit from financial assistance, shifts in the burden of proof, and alternative dispute resolution procedures. If victims cannot take the case themselves, they can look to NGOs for support and class actions. Judges have the full range of sanctions at their disposal in cases of discrimination. The major weaknesses in Serbia and many European countries are the equality policies and powers of the equality body. Serbia's Commissioner for Protection of Equality cannot investigate the facts of a case, lead its own investigations, or make binding decisions. In addition, the Serbian state could do more to promote equality through social and civil society dialogue, equality duties, and compliance monitoring (see PT, ES, UK, and Nordics).

Where are the strongest equality bodies in the region?

Bulgaria's Protection Against Discrimination Commission, Hungary's Equal Treatment Authority, and Romania's National Council on Combating Discrimination offer victims independent advice and can issue binding appealable decisions. Romania's council is an independent administrative body with a jurisdictional mandate. Hungary's Authority also has the legal standing to intervene on behalf of the complainant, while also instigating its own procedures, although only against certain public bodies. In the policymaking process, Bulgaria's Commission can submit legally binding recommendations to the parliament and government to prepare bills and abolish discriminatory laws.