



**Assemblée parlementaire
Parliamentary Assembly**

Links between Europeans living abroad and their countries of origin

Doc. 8339

5 March 1999

Report

Committee on Migration, Refugees and Demography

Rapporteurs: Mrs Manuela Aguiar, Portugal, Group of the European People's Party, and Mrs Ana Guirado, Spain, Socialist Group

For debate in the Standing Committee see Rule 47

Pour débat à la Commission permanente _ Voir article 47 du Règlement

Summary

Several tens of millions of Europeans live outside their country of origin. Growing awareness among states and expatriates' organisations of the social, cultural, economic and political importance of this population group is resulting in a strengthening of ties between these Europeans and their home countries and a desire for more appropriate legal and political representation of expatriates at state level. The fact that expatriates live within the host country's society but, at the same time, belong to their country of origin on one hand leads to identity crises, frequent in second and third generation migrants, but can on the other hand be an excellent means of forging links between nations. This report recognises the complexity of the situations encountered by expatriates all over the world and the great diversity of national attitudes and practices with regard to expatriation. It also makes proposals as to means of consolidating links between Europeans living abroad and their countries of origin. It now remains to take up the challenge of the obstacles which subsist, for example the institutionalisation of these links or the full exercise of political rights in the host country and the country of origin, to find solutions for effective, democratic parliamentary representation of this category of the

population and to foster debate within the member states of the Council of Europe.

I. Draft recommendation

1. Recalling its Resolution 1035 (1994) and its Order No. 495 (1994) on Europeans living abroad, the Assembly is satisfied to note that its Committee on Migration, Refugees and Demography organised a Conference on the links between Europeans living abroad and their countries of origin in Paris in June 1997, which highlighted the need for coherent policy on links between European expatriates and their country of origin, at both state and European level.

2. The Assembly recalls that, at present, several tens of millions of Europeans are living outside their countries of origin and that migration within Europe is constantly on the increase, particularly since the introduction of the legislative framework for free movement within the European Union, the collapse of the communist system in the east and the concomitant opening of frontiers.

3. The Assembly believes that it is in the interest of states to ensure that their nationals continue actively to exercise their nationality, so that it does not become merely passive or essentially a matter of feelings and emotions, and that those nationals can in fact play an important go-between role in host countries, working for better political, cultural, economic and social relations between their country of origin and the country where they live.

4. The Assembly considers that emigration may serve as a bridge between states and cultures and notes that, by maintaining close links, based on respect for other peoples and cultures, with their expatriates in Europe and elsewhere, the countries of origin discourage the misuse of such links for nationalistic or xenophobic ends and foster mutual understanding and peaceful coexistence between states and between peoples.

5. For that reason, the Assembly recommends that the Committee of Ministers:

i. ensure the implementation, within the Council of Europe, of close collaboration between the governments of member states, their parliamentary delegations and the competent associations as regards political, legal, cultural, economic and social means of strengthening links with their expatriates;

ii. to this end, organise a colloquy on this theme, bringing together representatives of the governments and non-governmental bodies of the forty member states of the Council of Europe;

iii. prepare a recommendation to the member states with the intention of fostering voluntary participation of expatriates in political, social and cultural life in their country of origin, by instituting and harmonising arrangements for specific representation, such as the right to vote and specific parliamentary and institutional representation through various councils;

iv. consider implementing new forms of representation at European level for Europeans living abroad, for example by setting up a "Council of Europeans abroad" under the auspices of the Council of Europe;

v. invite member states:

a. to take account of the phenomenon of expatriation, its benefits and challenges, in their migration policies, notably with a view to introducing support measures in the cultural, educational, social and political spheres better serving the interests of both states and nationals;

b. to undertake, if they so wish, a survey of their nationals living abroad, taking into account the differing and complex situations of permanent and temporary expatriates;

c. to draw up, at national level, an in-depth, systematic analytical description of the respective situations of expatriates, with a view to co-ordinating expatriate relations policies at European level and harmonising arrangements for the institutional and political representation of expatriates, for example by creating a real expatriate status through appropriate legal instruments;

d. to take account of expatriates' interests in policy-making and in national practices concerning:

i. the movement of individuals, visas and border formalities;

ii. the naturalisation in the host country, resulting in dual nationality;

iii. the right to vote *in loco* in the country of origin;

iv. the right to vote of expatriates in Embassies and Consulates in their host countries;

v. expatriates' right to vote in local elections in the host country;

vi. the guaranteed right of expatriates to vote and to be elected to European bodies;

e. to draw up specific legal frameworks for protecting these "Euro-migrants", particularly in the new democracies of central and eastern Europe;

f. to promote the idea that public media should produce specific programmes for expatriates;

6. The Assembly considers it important to maintain the right of return for expatriates having possessed the nationality of their country of origin and to foster the economic and social reintegration of persons returning to their country of origin.

II.Explanatory memorandum by Mrs Aguiar and Mrs Guirado

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1.Introduction

1.Although full and satisfactory definitions of the term "expatriate" are still hard to come by, and detailed data on emigration are still in short supply, there is definitely a new awareness of the significance and effects of expatriation in the new context of freedom of movement in the Europe of the Fifteen, and of increasing migration flows in the countries of central and eastern Europe.

2.Several tens of millions of Europeans live outside their countries of origin, and intra-European migration and binational marriages are increasing all the time. These trends are helping to undermine both traditional conceptions of the state as a geographically delimited population unit and formal concepts of nationality.

3.In fact, it is in states' interest that their nationals should continue to exercise their nationality consciously and actively, ensuring that it does not become merely passive, or essentially a matter of feelings and emotions. For their part, those nationals can play an important go-between role in host countries, working for better political, cultural, linguistic, economic, financial and commercial relations between their countries of origin and the countries where they live. They act, in other words, as an interface, with definite socio-economic effects on their home countries.

4.The importance of the new communication and information technologies should not be underestimated here. They have made expatriation seem far less of a severance, enabling expatriates to keep in regular, indeed daily, contact with their own countries, particularly via the Internet, which may well henceforth be one of the big issues when ways of making it easier for expatriates to stay in touch with their own countries are discussed.

5.At a time when links between expatriates and nationals are being redefined and taking new forms, it is wise to encourage discussion of the issues at European level and try to promote, at national level, the introduction or development of genuine measures to make those links closer.

6.The Council of Europe, whose main aims are to defend human rights and pluralist democracy, and to promote a European cultural identity, is undoubtedly a suitable forum for discussion and action in this area. Having already done much to promote the social and political rights of foreigners in their countries of residence _ for example, by adopting numerous resolutions and recommendations designed to facilitate their integration, and secure for them equal opportunities, the right to their own culture and participation in local public life _ the Council has also turned its attention to relations between migrants and their countries of origin and protection of their legal status with regard to those countries. That status, reflecting their fundamental rights, must be accepted by member states as a genuine branch of the law _ "the law of expatriates".

7.In its Resolution 1035 (1994), adopted by the Standing Committee on 18 May 1994, in the wake of the report prepared by Mr Böhm, former Chair of the Committee on Migration, Refugees and Demography, the Parliamentary Assembly called on the governments of the member states to take various measures to form a clearer picture of migration by taking a census of their nationals abroad, and to improve their relations with their communities resident abroad.

8.The Assembly instructed its Committee on Migration, Refugees and Demography:

- to continue examining the current situation of Europeans living abroad and request national delegations to provide their support for that activity, and;

- consider preparing a colloquy on the subject of relations between member states and their nationals living abroad.

9. These two instructions provided the Rapporteurs with a starting point, as did the excellent survey compiled by Mrs Garriaud-Maylam, Member of the Senior Council of the French Abroad, and the findings of the Conference on links between Europeans living abroad and their countries of origin, organised in Paris on 10 and 11 June 1997 by the Assembly's Committee on Migration, Refugees and Demography.

2. Migration in Europe

10. It must be said that the effort to form a picture of migration in Europe faces numerous problems, one of them being the lack of reliable quantitative data on its spatial and temporal distribution. There is no data-bank at either European Union or Council of Europe level covering outward migration from the member states. The estimates are essentially based on comparison of any censuses carried out in host countries with figures for nationals registered with consulates. However, national census figures are often distorted, either because people with dual nationality do not declare their original nationality, or because these censuses are based on geographical samples or place of birth and ignore nationality. And while some countries, such as Germany and Norway, record annual departures, there are no figures on destinations. As for registration with consulates, this is normally optional, and the great majority of European expatriates do not bother, particularly in countries regarded as politically stable.

11. Forming a picture of the migration process in Europe is also rendered harder by the fact that, more often spontaneous than governed by structured migration policies, it covers a broad range of situations and reflects changes in our societies, their problems and their special features. It can be noted that the number of women involved has increased substantially in recent years, particularly as a result of binational marriages and family reunion policies. Spatial distribution has also altered radically, with the traditional emigration countries (Italy, Spain, Portugal) becoming immigration countries in their turn.

12. Migration flows can be divided into temporary migration, often of highly qualified service sector executives, and permanent migration, of those who leave to marry or retire. But the dividing line between the two is uncertain, subjective and open to change, since circumstances and the passing of time often turn provisional into permanent migration. There has also been a marked slow-down in emigration of largely unskilled workers from traditional emigration countries, while emigration of executives, engineers and the retired has risen steeply.

13. Usually, when people speak of Europeans living abroad, they distinguish between expatriates, normally sent abroad by companies or government departments for several years at most, and "residents" or "locals" _ people who have lived in the country for a long time, have sometimes been born there or have married a national, and work under local contracts, as well as certain families who have lived in a foreign country for two, three or even four generations, while preserving emotional, family and material ties with their country of origin.

14. As for the phrase, "European residing abroad", it actually covers a wide range of different situations _ from migrant workers looking for survival wages to top executives sent abroad by major firms, through international civil servants, students, former political refugees and people who go abroad to marry. Broadly, however, it applies to people who have their home, main place of residence, professional activity and principal interests outside their own country, but retain its nationality. At the same time, this idea _ that holding the home country's nationality is an essential pre-condition for its taking any interest _ is also interpreted differently in different countries.

3.States and expatriation

3.1.The great diversity of national attitudes

15. National positions on expatriation differ widely: some states encourage it and see it as a vital key to extending their cultural and economic influence. This applies to immigration countries like France, which have relatively few expatriates, and relatively under-populated countries, like Croatia. It also applies to Switzerland, which has set up a "Foundation for Study of the Swiss Presence Abroad" and a museum devoted to the history of emigration from the country. Finally, it applies to countries with high emigration levels, like Spain or Greece, which have written the legal obligation of protecting the rights of nationals abroad into their constitutions. For example, under the Portuguese Constitution "Portuguese citizens temporarily or habitually resident abroad shall enjoy the protection of the state in the exercise of their rights, and shall be subject to such duties as are not incompatible with their absence from the country." Conversely, some other countries in northern Europe, where emigration is a far older phenomenon and does not concern such large numbers of people, tend to be more detached from or indifferent to the question, giving greater prominence to immigration matters and to all kinds of participation at the local and national levels.

16. These varying approaches are naturally reflected in the structures established by the countries concerned, and a comparison of those structures shows a certain correlation between states' geographical locations and their attitudes. On this basis, **state policies on emigration can be divided into three main categories:**

- policies that might be described as "**national outreach**" or "**proactive**" because they operate when needed, having established a legal framework to protect the interests of expatriates. Initially this was a Mediterranean phenomenon, which one is inclined to regard as typical of countries such as Spain, Italy, France, Portugal, Cyprus, San Marino, Greece and Turkey. However, it reflects a change in conventional attitudes which occurred only a few decades ago. Indeed, it is also gaining ground elsewhere, both in an old democracy such as Switzerland and in the new democracies of central and eastern Europe, which have long seen their expatriates as embodying the values of liberty and democracy, and feel strongly about them. Those expatriates are not just an integral part of the nation, but play a vital part in keeping it going. These states have resolute policies on their expatriates and make them a priority, even if their budgets do not always match their good intentions.
- the "**laissez-faire**" policies of northern Europe (Denmark, Finland, Sweden, Norway, the Netherlands, Germany and the United Kingdom). These are countries with a long-standing tradition of emigration _ particularly to the United States in the 19th century _ which give their expatriates few rights. Measures providing assistance with schooling and social aid are very few and far between;
- the "**transition**" policies developing in states where shifts in future prospects are causing changes of attitude and legislative reforms: Ireland and Austria, which used to be in the "independence" or "laissez-faire" camp seem to be moving, little by little, towards the first group.

17. Although the countries of origin, which are growing in number, are willing to guarantee their nationals living abroad certain individual rights _ placing them on an equal footing with residents _ in the social, cultural, economic and political fields, there is not yet any genuine international law securing expatriates' rights. It is therefore necessary to continue the great effort to harmonise two fundamental principles of international law: the concepts of territorial sovereignty and national sovereignty.

18. All sovereign states have the right to refuse to permit the performance of an act of another state, for instance an electoral act, on their territory; on the other hand, they must also comply with the obligation not to intervene in matters that primarily fall within the domestic jurisdiction of another state.

19. The right solution therefore raises the issue of co-operation between states, at a bilateral level, of course, but also within international organisations such as the Council of Europe, especially since the emerging "law of expatriates" has citizens' interests at heart and not directly the interests of states. It is law commensurate with individual hopes and desires, adopted for the sake of humankind, on account of the legal system's perception of the individual; it is not law serving the cause of the state and the state's own interests, although states may benefit from the stronger ties guaranteed by the new law, either because migrants thereby integrate well into the host community or because their feelings of belonging to their community of origin are preserved.

20. The emerging law of expatriates is therefore made up of rules of domestic law (constitutional law, statute law and regulations) and rules of international law (treaties and conventions, custom and the general principles of law). It hence entails going beyond the bounds of traditional international law, in so far as it is concerned with and aimed at individuals and not just states. By acknowledging expatriates' political rights vis-à-vis their home country in its resolutions, the Council of Europe has set an example to be followed.

21. As was pointed out at the Paris conference, multilateral regulation of these matters will be possible only through trial and error and by taking into consideration each of the major families of states _ from our standpoint first and foremost the member states of the Council of Europe, but also Latin America, the western group of countries, etc.

3.2. The reciprocal benefits of support for expatriates

22. A growing awareness of the economic and cultural potential of expatriates is to be noted. The economic and financial impact of diasporas on countries of origin is far from being negligible, in terms not only of support for exports, but also of financial resources.

23. By creating a new public space, the collapse of communism served to highlight the vital role played by the diasporas in the democratisation and reconstruction processes. The opening of frontiers in Europe and the globalisation of trade have strengthened perceptions of nationals abroad as formidable instruments of economic, cultural and political influence in host countries.

24. At the same time, expatriates themselves are reacting to the pressures to conform and integrate culturally and socially which they sometimes face in host countries, and are anxious to preserve the things that make them different. They see their dual allegiance as something which enriches both them and the host country. Even the second and third generations are taking a new interest in their countries of origin, particularly in countries like the United States, where the dominant culture is a strong one. In such cases, a strengthening of ties with the home country is seen as a way of turning this dual allegiance into an asset and resolving the identity crises which often afflict second-generation migrants.

25. On-the-spot support for nationals abroad is also regarded as a way of preventing mass returns, which could well prove a threat to the home country's economic stability. This applies to Poland, and more recently to Ukraine, which took in over 250,000 Crimean Tatars, and Germany, which prefers supporting its "Aussiedler" in their countries of residence to having to cope with continued mass arrivals. Economic differentials between countries of origin and countries of residence are a frequent source of temptation to second and third-generation binationals living in poor countries, who often idealise the country which, in fact, they do not know. This is why it is important to provide them with vocational training or help them to find work in the country of residence,

making it easier for them to integrate and preventing possible disappointments if they "go home".

4.Measures taken by states

4.1.Structural measures

26.From an administrative viewpoint, initiatives vary greatly between countries. Some, like Italy, Portugal, Spain, Switzerland and France, pursue fully proactive policies for expatriates, while others _ particularly those where *jus soli* applies _ have taken no special measures to assist them. Some of the former Soviet bloc states have acted very rapidly to assist their nationals. Poland, which has concluded bilateral agreements affording specific protection to its nationals, is one of them.

27.It was when the decolonisation process ended and trans-European migration developed in the sixties and seventies that emigration countries like Spain, Italy and Portugal began to take measures to support their expatriates, particularly by setting up governmental structures or "emigration offices". For some countries, such as Portugal, governmental offices were created with the aim of facilitating new temporary emigration to other European countries with the prospect of return.

28.Most states have set up departments with special responsibility for their nationals abroad, usually within their foreign ministries (Austria, Cyprus, France, Greece, Portugal and most of the Baltic and central and eastern European countries, for example), but sometimes within their ministries of the interior (Germany) or labour ministries (Spain), with educational and cultural activities being dealt with by their education ministries.

29.Policies fit into one of two categories: states seeking to establish a network of cultural centres strongly dependent on the state, which serve to promote the country's image or even to "supervise" the association-based activities of its expatriates; and states whose diaspora is the result of independent or spontaneous movements, a pure product of a civil society with its own projects and resources, receiving only a few more or less symbolic grants, if any, from the state (as in the case of Portugal).

30.As far as return migration flows are concerned, even without precise statistics it can be said that all the major European countries with a tradition of emigration have been affected. In most cases the emigrants' return has been a gradual process, based on free choice, and can be termed a fair success. The aid policies practised by countries such as France and Germany throughout the eighties, based on payment of subsidies and on other financial benefits for those returning home, generally did not alter the voluntary nature of this movement, which had already begun before these measures were taken and which continued after they ended. Portugal _ like France in earlier times _ experienced two completely opposite situations:

- the return *en masse* of nearly one million people as a result of the decolonisation of 1975, who were very quickly and very successfully integrated into the new host society thanks to aid from the state and also from international organisations (such as the Social Development Fund of the Council of Europe);
- voluntary, spontaneous returns aided by the home country and supported indirectly by loan schemes and tax and customs facilities, as well as facilities geared to recognition of school diplomas and free access to universities (1980) for the children of expatriates.

4.2.Cultural and linguistic initiatives

31.Most of the initiatives in this field have been taken by organisations set up by the emigrants themselves, which exist virtually everywhere in the host countries and cater for all the national or ethnic groups. As a rule, these take the form of associations established as individual initiatives, which have always

been independent of the state. Yet it is clearly in the interests of the state to recognise their autonomy and worth, treating them as genuine partners in the implementation of a policy aimed at maintaining links of all kinds with the country of origin. The primacy and irreplaceable contribution of civil society must also be recognised, however, as state involvement always entails risks of bureaucracy, propaganda or possibly intervention that might be seen in a poor light in another country. Local associations, on the other hand, are generally constituted under the law of the host country and serve as partners to both home and host countries.

32. Associations make a decisive contribution to the cohesion of national groups abroad and thereby to allegiance to the home country and the influence of its culture. At the same time they reflect the degree of integration into the host country's society: the more successful the integration, the more open the associations and the more likely they are to form a real link between the home and host countries. There is often criticism _ in our view erroneous _ of a certain isolation of expatriates resulting from the *modus operandi* of their organisations, which are regarded as a cause rather than a consequence of the lack of adaptation to new living and working conditions. The networks of "clubs" and social centres set up by emigrants are also often accused of encouraging nationals to live in the past aura of their own culture and retain a fixed image of their country from the time of their departure. While it is true in some cases that there is a "ritual" respect of ancestral customs and traditions or (a good deal worse) ignorance of cultural changes in the country of origin, it may also be said that, with the globalisation of the media, television and radio broadcasts by satellite, and the Internet, this narrow view of emigrants is increasingly becoming an obsolete stereotype.

33. As far as cultural rallying points are concerned, the diversity of state policies is striking. Many European states have created public cultural institutes whereas, in other countries with a tradition of emigration, the momentum is provided by a strong movement of cultural associations, which take the place of the state in disseminating language and culture where applicable. France, Spain and Italy fall into the first category, while Portugal (particularly in transatlantic contexts such as Brazil or the United States) is a good example of the second. Swiss schools abroad also stem from private initiatives. In any case, it is clear that private associations play a vital role. Apart from their often essential function of helping expatriates to integrate in the host country, associations play a decisive part in providing cultural and linguistic support, either by replacing the absent state or by effectively extending the reach of the government's cultural policies. Providing a full, comprehensive education in the home language is very costly, however, and only the larger countries have been able to develop such education systems abroad, with real schools of their own.

34. Expatriates are mainly kept informed through associations or federations of associations, which publish information journals or practical information sheets on various legal, social or cultural issues. Associations of expatriates are gradually, like governments, moving onto the Internet; for Albanian expatriates, for example, there are unusually detailed web-pages in English containing, in particular, all press agency releases concerning their country and a whole range of practical information (visas, jobs, etc.). Several states have special television channels, broadcast by satellite. Some radio stations also have programmes for expatriates.

35. In general, the media serving expatriate communities (television, radio, numerous newspapers and magazines often of high quality, the Internet) are particularly useful in keeping expatriates in touch with their own country's policies. They can also fulfil an important communication function by serving as a mouthpiece for expatriates' complaints and demands, and they certainly provide psychological support and a personal link with the home culture.

4.3.Political rights

4.3.1.The right to vote

36.The right to vote may be regarded as the principal attribute of citizenship and its exercise as the very basis of democracy. This is why, in its Recommendation R 8 (1986), the Committee of Ministers urged member states to allow their expatriates to vote by post, in person at their consulates or by proxy. Political participation is characterised, however, by a dichotomy between states which have reservations about giving expatriates voting rights, and states, particularly in central and eastern Europe, which are very anxious to organise their nationals' democratic participation in the various elections more effectively and to channel it. It must be said that there is, at present, no uniformity at European level in the way the various states organise their expatriates' voting rights.

37.The reservations of certain countries reflect their adherence to the principles propounded by the philosopher John Locke who, in the 17th century, was already insisting that the right to vote and the duty of paying taxes were connected _ which would logically lead those states to restrict voting rights to foreigners resident on their territory. The Nordic Council states _ Sweden, Finland, Norway and Denmark _ were actually the first to give foreigners the vote in the 1970s, sometimes on a reciprocal basis to start with, but later with no distinction between nationalities. Some other countries are alarmed by the unexpectedly large number of their expatriates and are afraid of giving undue political weight to people who, while knowing relatively little about the real political situation in the country, may yet influence the outcome of elections.

38.It must be said in this connection that statistics on emigrant communities almost never differentiate between, on the one hand, expatriates with a real political, legal or cultural allegiance to the society of origin (which applies to a minority of the first generation of emigrants and a far smaller proportion of the second) and, on the other hand, individuals of less direct foreign origin, "nationals" in a very broad sense, which includes all those entitled to hold the nationality of the home country.

39.It is in this broad sense, taken to extremes, that it is possible to talk of 70 million people of Irish origin or even 4.5 million Hungarians. In Portugal's case, based on such a vague definition it can be said that there are tens of millions of Portuguese in Brazil, the United States and elsewhere. Even if only the first and second generations of emigrants are counted and expatriates are estimated at 4 or 5 million individuals, that diaspora has to be compared with the number of Portuguese actually registered to vote (some 170,000). In addition, abstentionism in the country's parliamentary elections is extremely high, since only 35,000 to 40,000 people actually exercise their right to vote. The situation is similar in most of the countries which allow their expatriates to vote.

40.In our opinion, this more realistic perspective can help to overcome strong public fear of a hypothetical mass invasion of electors from abroad. This applies above all to the countries where expatriates are entitled to vote on condition that they do so in the country itself, the purpose obviously being to limit participation, as if it was not low enough. Highlighting the disproportion between "the diaspora" and those actively involved in the political life of a country may raise doubts about what interest expatriates themselves show in participating. The answer is that the issue has nothing to do with the number of people concerned, but is essentially a matter of fundamental, inalienable human rights. It is important that all those wishing to exercise them may freely do so. In our opinion, voting from abroad, as well as registering as a voter, should always be voluntary, while states have a duty to facilitate this, inter alia by providing a maximum of information on the subject.

41.Expatriates wishing to vote normally have to do so in person at their embassies (Austria, Bulgaria, Finland, Spain, France, Norway, Poland, Romania, Sweden) or a consulate or may vote by post (Germany, Austria, Belgium _ where they must be registered in a Belgian commune, Spain, Luxembourg, the Netherlands, Poland, Portugal and the United Kingdom). Postal voting

sometimes gives rise to reservations, being seen as potentially open to fraud. There are other drawbacks with this type of voting, including the risk of mail being lost by inefficient postal services, particularly outside Europe. This is why many countries which permit this form of voting hedge it round with precautions: Austrians voting by post must either go to the consulate or embassy in person and fill in the postal ballot paper on the premises, or alternatively complete it before two Austrian witnesses _ or witnesses of another nationality if they are officially empowered to do this (ie have the same status as solicitors).

42. Some countries subsidise travel home to vote by arranging substantial fare reductions. But the cost of such political participation is sometimes questioned: San Marino, for example, used to refund 75% of its expatriates' travel expenses, but received protests from tax-payers. A referendum put an end to the practice, but postal voting was still not introduced for the 1998 elections as had been hoped.

43. More and more countries are allowing their expatriates to vote in national presidential or legislative elections but not in local elections, the only exceptions being Switzerland for certain cantons, Spain and France (provided that they vote, as in legislative elections, by proxy). Swiss expatriates may also vote in national or cantonal referendums. The Council of the Swiss Abroad championed claims to that right for nearly ten years.

44. It should be noted, however, that winning this concession has often been a very lengthy process. Switzerland offers a telling example: although the possibility of allowing Swiss nationals to vote abroad had frequently been discussed since the adoption of the Federal Constitution of 1848, it was not until 1966 that a new Article 45bis was inserted, empowering the Confederation to pass an Implementing Act on the political rights of Swiss abroad, and not until 1 July 1992 that postal voting was introduced at federal level. In 1992 Austrian nationals living abroad were allowed to vote in presidential elections for the first time. British expatriates were allowed to vote for the first time in the 1987 general election, provided that they had been out of the country for less than five years (raised to twenty years for the next parliamentary elections in 1992). The 1997 version of the Portuguese Constitution made provision for expatriates to vote in presidential elections for the first time, but only for citizens registered up to 1996; the others have to wait for the enactment of still ill-defined regulations on the subject. The Constitution also provides for participation in referendums, although this is limited to matters "specifically" concerning expatriates.

45. The Italian parliament has acknowledged the need to revise Article 48 of the Constitution to allow expatriates to exercise their voting rights without having, as at present, to go to Italy to do it. The Elections Act is at present being reviewed.

46. Poland has so far restricted expatriate voting to the first round of elections (the reason given being the administrative problems involved in organising two ballots abroad within a fortnight), but is now planning not only to extend the foreign vote to the second round of elections, but also to make certain MPs specifically responsible for representing Poles living abroad.

47. Turkey, whose parliament had already discussed the question in 1965, is at present working on a bill providing for political representation of its expatriates and giving Turkish citizens the vote in national elections.

48. It would also seem that, in countries which allow their expatriates to vote, the actual participation rate is so low as to have little effect on the outcome. More often than not expatriates' voting patterns would seem to conform, to a large extent, with the general trend, possibly with a slight inclination to right or left, but certainly no tendency to support parties of the far right or left. The countries which make a genuine effort to inform their expatriates, particularly through regular announcements in the local press, enjoy the biggest turn-out.

4.3.2. Specific representation in parliament

49. As we have seen, a number of countries allow expatriates to vote in elections to the upper or lower chamber of parliament, but few provide them with specific parliamentary representation.

50. Portugal allows expatriates to vote by post for MPs in two "emigration constituencies" ("Europe" and "outside Europe") _ electing a total of four of the 230 members of parliament. A government proposal in 1980 sought to increase the number of emigration constituencies to three (Portuguese-speaking countries, Europe, rest of the world), each with three MPs, but was not debated in parliament. It was revived recently and has substantial backing within the Council of Portuguese Communities. Securing political rights and recognition of "dual nationality" were among the first recommendations made by the Council at its inaugural meeting in April 1981.

51. In Croatia twelve parliamentary seats have been reserved since 1995 for expatriates' representatives, who are elected proportionally from specific lists for a four-year term. The number of representatives may increase in the near future.

52. Although French nationals abroad are not represented in the *Assemblée Nationale*, Article 24 of the Constitution of 4 October 1958 provides for representation in the Senate, and twelve senators are elected for a nine-year term by the 150 members of the Senior Council of the French Abroad.

53. The bodies representing Italians abroad provided for in the Constitution, such as the Committees of Italians Abroad, are currently being reformed by the Italian parliament, which would like to grant them more importance. The most significant proposals for reform include guaranteeing the right to vote for Italian expatriates and introducing an electoral constituency with a representative elected by Italians abroad, since existing electoral legislation does not allow them to vote.

54. In Ireland too a constitutional amendment has been proposed, providing for the election of three members to the Senate (*Seanad Éireann*) by Irish emigrants. These would replace three of the eleven members currently nominated by the Prime Minister, leaving the present total of 60 members unchanged. However, this amendment has not yet been approved, a necessary first step before it goes to referendum.

4.4. Institutional representation

55. Some European states have set up special bodies to represent their expatriates, giving them a chance to air their views on matters concerning them as residents abroad or members of their diaspora's organisations: the "**Councils**".

56. The Councils may constitute the sole form of electoral participation for expatriates or, on the contrary, be additional to voting in parliamentary elections. The aim common to all of them, aside from any differences in structure and resources, is the fostering of dialogue between diaspora spokesmen and state officials or representatives on migration issues, taking the form of a formal consultation on the part of the government or at the initiative of the Councils' elected members.

57. As regards the source of their representative legitimacy, the Councils may be divided into three groups:

- association-based Councils, which bring together representatives directly elected by associations or via the network of federations and confederations (Switzerland, 1917; France, 1948; Portugal, 1980; Greece, 1995);

- Councils of citizens or emigrants, elected by direct universal suffrage (France, 1984; Portugal, 1995) or indirect universal suffrage (Spain, 1989);
- mixed systems, as in Italy (1985), the first country to have attempted to supplement direct elections to Councils with the possibility of co-opting a number of members elected through associations, who need not be of Italian nationality.

58. Without going so far as to guarantee the Council an expressly dual nature, the Portuguese law of 1995 sought to forge close links with a very strong movement of associations, which is extremely well developed and virtually omnipresent. Lists of candidates for direct elections can be presented either by a hundred citizens or by an association considered as being in the "public interest". In practice, the 1997 elections showed that over 80% of candidates administer or, often, chair organisations representing communities abroad (an even higher percentage of those elected in 1996 fulfilled such functions).

59. The association-based model has the following advantages:

- considerable autonomy resulting from the strength and independence of social movements which are not dependent on government grants, particularly for their functioning at local level;
- a role of genuine social partner, providing the state with the effective co-operation of hundreds of highly dynamic groups;
- encouragement to the most active members of communities abroad to participate, even if they no longer have the nationality of the country of their ancestors;
- no or less party politics within the "Council" institution, unless the associations themselves are very politically committed.

60. The most common objection to the system of representation through associations is that the associations, even in the broad sense of the term, represent at the most only 10 to 20% of the diasporas (a situation which is also due, as we have already seen, to an exaggerated statistical definition of the diasporas).

61. A highly attractive – though utopian – idea in favour of an expatriate Council elected by universal suffrage is that it allows all or most emigrants entitled to a national passport to participate. However, direct democracy is exercised by only a small percentage of the total number of expatriates. One drawback of this system is of course the strong, or stronger, politicisation of the Councils, which become assemblies elected, more often than not, with the more or less open assistance of national political movements. The least one can say is that the strengthening of these bodies' functions and powers of representation should go hand in hand with a concern to make the election process more democratic, so as not to disappoint and demotivate the representatives elected by universal suffrage.

62. In any case, from a purely theoretical point of view we would not presume to come down in favour of one or other of the models we have outlined. What is important is that dialogue may be established, that effective co-operation links can be developed between, on the one hand, the state (government or even parliament and local, regional and professional bodies) and, on the other hand, those who represent expatriates, be they citizens registered with consulates or members of firmly rooted communities who have lived abroad for generations. The point is to arrive at a better understanding of the needs – cultural, social, economic – of the group represented and to find effective solutions to their problems and expectations. The legislative and constitutional aspects are less important than the living institution which the Councils embody thanks to an ever-present determination to pool efforts and share a common future. For this reason, the institutions of this kind that came into being as a

result of government action (all except Switzerland's) and those established by private initiative must in this respect be regarded as equivalent.

63. The **Council of the Swiss Abroad**, also known as "the parliament of the fifth Switzerland", is a private foundation, largely funded by the state. It represents the interests of Swiss people living abroad in dealings with the Swiss authorities and parliament, and provides various services (information, support, legal advice, etc.). It comprises 150 members, elected for a four-year term: 120 of them by Swiss associations abroad and 30 from among leading public figures living in Switzerland. It meets twice a year, and its secretariat deals with routine matters between meetings. The president of the Organisation for the Swiss Abroad, generally a leading public figure living in Switzerland, is elected for four years; the president elected in 1998 and his predecessor were both MPs at federal level. The Council's meetings are open to the media and the public. After the second plenary meeting of the year, a "Congress of Swiss Abroad" takes place, which is open to all expatriates or former emigrants and debates a general theme (in 1998 the 76th Congress was devoted to "Swiss emigration yesterday, today and tomorrow" and the programme included addresses by specialists, round-table discussions, and debates open to the 600 participants).

64. This already long lifespan _ 81 years for the Council and just a few years less for the Congress _ has enabled the Organisation for Swiss Abroad to become a well-rooted institution, enjoying considerable influence with the public authorities and broad scope for action, extending well beyond the merely consultative role of other more recently established bodies. The state-subsidised publication, "Switzerland", sent to all citizens registered with the consulates _ a real joint venture, half official bulletin providing legal information and half news content decided on solely by the Council _ is a most impressive example of this action, as are the holiday camps for young Swiss expatriates and the "Solidarity Fund" for Swiss nationals living abroad.

65. The oldest of the state-instituted bodies is the Senior Council of the French Abroad (the **Conseil supérieur des Français de l'étranger**, or CSFE), which was established in 1948, mainly at the instigation of a world-wide association of expatriates. The CSFE at present comprises 150 members elected by universal suffrage of French nationals entered on the electoral registers kept for that purpose in the consulates, 20 leading public figures nominated by the government and 12 senators elected by the 150 members. As an advisory body attached to the Ministry of Foreign Affairs, the CSFE is chaired by the Minister. The Council meets twice a year in Paris, and its members are divided into five committees dealing with sectoral issues and two ad hoc committees (one on women and the other on questions concerning military service). The committees meet at least once a year in Paris, separately from the plenary sessions.

66. The **Council of the Portuguese Communities** (CPC) of 1980 was also a body representing the community organisations, elected by the representatives of each host- country-based association wishing to participate. The elections were held for each consular constituency and local elected representatives chose representatives for the country of residence from among their ranks. The CPC held one plenary session a year, chaired by the Minister for Foreign Affairs (sometimes deputised for by the Secretary of State for Emigration), with tripartite attendance:

- state (national government, regional governments, MPs elected by emigrants);
- 60 members elected by the associations (who did not have to be of Portuguese nationality);
- representatives appointed by trade union and employers' organisations.

The law was revised in 1984 in response to a recommendation by the elected members of the CPC establishing "Councils" for the main regions (Europe,

North America, South America, Africa, Asia), meeting every two years and alternating with plenary meetings in Portugal. In 1986, a ten-member Standing Committee was set up. A further revision of the law (in 1990) proved impractical, totally paralysing the functioning of the advisory body at national level. The 1996 revision established a system of direct elections open to all citizens registered with the consulates (which excludes those not holding Portuguese nationality but registered nevertheless). In the first elections, less than 40,000 people, out of an electorate of two million, exercised their right to vote. Today, the CPC has 100 elected members – the only members entitled to vote and to be elected to the chair in plenary sessions and sessions of the regional councils (see above), the Standing Committee and the country councils. The Secretary of State for the Portuguese Communities, the "emigration MPs" and other MPs from the different political parties are fully fledged members with no entitlement to vote. Other members of the government, parliament or public authorities, leading public figures or experts may be invited to participate in the working meetings. The CPC is elected for four years and, during that period, meets in Lisbon only once. This means that the regular functioning of the institution relies on active input from the five regional Councils, which meet once a year, and the Standing Committee which holds two meetings a year in the parliament building in Lisbon.

67. The **Committees of Italians Abroad** were set up in 1985 under the aegis of the individual consulates. Where they represent a minimum of 3,000 Italian nationals, their members are elected by universal suffrage every five years (or appointed in countries where the law does not permit the holding of elections to foreign bodies or where there are less than 3,000 Italian expatriates) – a maximum of twelve members for communities with a population of between 3,000 and 100,000, and 24 over that. By law these elected representatives can also co-opt "foreign nationals of Italian origin", whose candidature must also be supported by the associations. So far, three elections have been held (in 1986, 1991 and 1997). The committees' activities bear on all aspects of expatriates' relations with Italy, particularly the preservation of cultural, social and economic ties. They also defend expatriates' rights in the host countries. The **General Council of Italians Abroad** was established in 1989. This comprises 94 people, 65 of them elected by the members of the committees, and 29 appointed by the government. It is chaired by the Minister for Foreign Affairs, advises the government on all issues affecting Italian expatriates, and also proposes new legislative initiatives. At present, Parliament is examining two bills which would increase the General Council's powers and do away with the government's right of supervision.

68. Structures for the institutional representation of Spanish expatriates were established in 1987: firstly, the **Councils of Spanish Residents**, which are attached to the consulates in all districts where at least 700 expatriates are registered; secondly, a **General Emigration Council**, comprising 60 members and the chairman, 43 of them elected by the councils of residents, the others nominated either by regional, professional and trade union bodies or the government, with a president nominated by the Minister for Labour. The General Council advises the Spanish Government and meets at least once a year. The members of both councils serve for a four-year term. The Minister for Labour recently realised plans to restructure the General Council, increasing, for one thing, the number of elected representatives from 36 to 43.

69. Greek expatriates, representing a diaspora of over five million people, have set up more than 3,500 grass-roots organisations in the host countries. The aim of these organisations is to preserve the Greek language and culture and also ties with the home country, and their activities are co-ordinated by federations, which are themselves grouped in confederations. In 1995, the Greek government established the **World Council of Hellenes Abroad** as a general co-ordinating body. Its members, who are elected by local organisations the world over, look after the interests of Greek expatriates and are wholly independent of the Greek government in their activities. The Council meets every two years in Thessaloniki, where it has its head office. It is administered by a nine-member elected executive. Its activities are financed by the General Secretariat for Greeks Abroad and by fund-raising. The General Secretariat for Greeks Abroad is a public body, founded in 1983 and answerable

to the Ministry of Foreign Affairs. It looks after Greek expatriates and, in particular, has the job of providing them with information on the home country, supporting their cultural activities, strengthening their ties with Greece and assisting them on the social welfare front. It also co-ordinates government policies affecting expatriates in such fields as education, military service, investment, insurance, taxation, etc. Its recent activities include launching a world-wide Internet site for Greeks abroad and organising Greek Cultural Months throughout the world.

70. In 1998 Turkey set up a High Council for Nationals living Abroad, with the main objective of coming to the assistance of Turkish expatriates. Any request or proposal originating from the expatriate community is forwarded to the Committee of Ministers for action. Expatriates must first refer issues to another body, the Co-ordination Council for Nationals living Abroad. With a membership of 46 representatives of Turkish communities abroad and representatives of other agencies, this council is responsible for initial identification of the problems encountered by Turkish nationals living abroad and for recommending specific solutions to the High Council.

71. The Irish Ministry of Foreign Affairs provides financial support for Irish communities abroad (a budget of one million Irish pounds has been earmarked for 1999, which will be distributed to voluntary organisations in the United Kingdom, the United States and Australia). It also works with the embassies and consulates to supply Irish expatriates, in particular those wishing to return to Ireland, with information on educational and social matters. An **Interdepartmental Committee for Emigration**, representing various government agencies and departments, has also been set up with the aim of pooling information and co-ordinating activities. Official policy to sustain contacts between Ireland and Irish nationals living abroad has the backing of charitable or religious organisations, which serve as additional sources of information. Young people receive special assistance, as do the homeless, the unemployed, the elderly and people excluded from the mainstream of society. However, it can not be considered as a real council of emigrants, but rather as an initiative of a non institutionalised governmental support.

72. Non-resident Irish nationals do not have the right to vote in elections or referendums. However, there are plans for the multi-partite Committee on the Constitution to address this issue.

73. Several countries or regions within the geographical area covered by the Council of Europe have created extended association-based movements for their diaspora and some of them organise meetings or congresses on a regular basis (see the Böhm report on "Europeans living abroad"). What is important is the institutionalisation of dialogue between civil society, the communities or their expatriate representatives and the state, with a view to improving mutual understanding, resolving expatriates' problems more effectively and, above all, strengthening links between nationals or national communities living abroad and their country of origin.

5. Strengthening links between expatriates and their home countries

5.1. Problems encountered by expatriates

5.1.1. Problems linked with the laws on nationality

74. The concept of nationality, like that of citizenship, has different meanings in different Council of Europe member countries. For the nations of Europe, citizenship, meaning equality before the law and participation in public affairs, has traditionally been bound up with the concept of nationality, which strictly speaking refers to membership of a cultural community having a variety of roots (ethnic, linguistic, religious and historical). The ideology of the nation-state, which took hold in the nineteenth century, has its basis in the concept of the nation as a sovereign state with its own territory and frontiers. This concept has naturally been undermined by social and political developments of the last ten to fifteen years, as can be seen, firstly, from growing acceptance of dual nationality and, secondly, from the plans for a form of European citizenship.

There is talk of a tendency towards "deterritorialisation of politics", which is in fact in line with the wishes of individuals, who want their home countries to grant them more rights and afford them greater protection. As a result, the traditional obligations of states towards their citizens living abroad have become more complex. The problems of dual nationality, acknowledgement of gender equality in transmission of nationality to children, acquisition of nationality through marriage or naturalisation of immigrants who also wish to retain their original nationality raise complex issues which fall within the province of private and public international law and are governed by both the domestic law of states and bilateral or multilateral agreements.

75. The Council of Europe Convention of 6 May 1963 on the Reduction of Cases of Multiple Nationality and on Military Obligations in Cases of Multiple Nationality, which has been ratified by fourteen states and stipulates that a person automatically loses his home nationality when he acquires the nationality of his country of residence, has created major problems for Europeans abroad, who generally want to see it renegotiated. It should in fact be impossible to lose one's home nationality even if one voluntarily takes another nationality. In this connection, the European Convention on Nationality, adopted by the Council of Europe's Committee of Ministers on 15 May 1997, actually seeks to limit the possibilities of losing nationality as a result of voluntarily taking another nationality. However it does not seek to impose acceptance of dual or plural nationality but rather to avoid the imposition of a single choice sought by the 1963 convention. Consequently, it takes a neutral stance, and we think it necessary to go further in safeguarding migrants' freedom of choice to adopt one or more nationalities.

76. The question was already raised at the second Conference of European Ministers responsible for questions of migration in Rome in 1983, by the heads of the Portuguese and Spanish delegations. Both countries had amended their domestic law to allow expatriates to take another nationality without losing their initial one; the aim was both to comply with migrants' wishes to maintain their citizenship links with the country of origin and to guarantee more successful integration via naturalisation in the host country.

77. Extension of the concept of European citizenship, first put forward in Maastricht, could have solved some of these problems; and indeed some aspects of it could have applied to Council of Europe states as well. Unfortunately, this idea was misunderstood, and was not allowed to develop naturally. Danish reservations, in particular, linked it intrinsically and inexorably with the nationality of a member state, whereas it should have been an extension and enrichment of such nationality, not a substitute for it. Seen as a potential source of conflict in negotiations which were already causing problems, it was quietly left on one side. And although the European Summit in Florence on 21 and 22 June 1996 called on states to strengthen European citizenship without replacing national citizenship, while respecting the national identity and traditions of member states, no real progress was made at the Intergovernmental Conference in Amsterdam in June 1997.

78. From the point of view of rights to political participation, "European citizenship" has remained blocked at a relatively modest level too, since it is restricted to local elections. At the conference on the links between Europeans living abroad and their countries of origin, held in Paris in 1997, participants referred on several occasions to what might be termed a "Luso-Brazilian" model of citizenship based on the Treaty of equal rights and duties concluded between Brazil and Portugal in 1971. Under that treaty, nationals of one country living in the other are entitled to vote in national and federal elections and also to be elected at above local level. Subject to reciprocal treatment, the Brazilian constitution of 1988 granted Portuguese citizens enjoying "political rights status" the right to stand for election to the Senate or the Congress or to become a minister of state or a supreme court judge. It is thought that this model approved in Brasilia could serve as a source of inspiration for an extended form of European citizenship.

5.1.2. The difficulty of exercising political rights

79. Paradoxically, there is a danger that the concept of European citizenship may tend to loosen countries' political ties with their expatriates. Thus French nationals abroad, who, since the first elections to the European Parliament by universal suffrage in 1979, have been able to vote for the French national lists in their consulates, risk losing this possibility. Consideration is being given to a change in voting arrangements, involving the creation of large regional constituencies, including one for the French overseas departments and territories but none for French nationals living abroad. This would oblige them either to vote in their state of residence, if they live within the European Union, or by proxy in their home constituencies (as for parliamentary elections), with a corresponding loss of influence on a ballot which affects them directly.

80. As we have seen, the expatriate turn-out in elections is traditionally low, which certainly lends no weight to their demands and may even, in time, constitute a threat to the bodies which represent them. There are various reasons for these high abstention rates: long journeys _ sometimes of several hundred kilometres _ to centralised polling stations, complex voting procedures, a certain indifference to "the politicians' game" and, above all, a very severe lack of information. Some expatriates from countries which were undemocratic for a long time distrust their governments. Many others still have a natural tendency to keep their heads down, and this instinct is strengthened by the fact that some countries, such as Germany and Switzerland, insisted until very recently that foreigners on their territory might only vote by post.

5.1.3. Social and fiscal discrimination

81. Most of the problems encountered by expatriates are due to the wide variety of laws and administrative procedures in host countries. There is also a certain discrepancy between the theoretical _ or formally agreed _ level of protection enjoyed by foreigners under international treaties and national constitutions, and the level of protection actually accorded to them in host countries.

82. For example, concepts of "fiscal residence", regulations on taxes, and the ways in which they are levied vary from country to country, creating a risk of double taxation. Expatriate Europeans are also the victims of definite tax discrimination. Until recently, for example, French expatriates with houses in France paid fixed-rate taxes at three times their rental value, and were not entitled to the normal allowances (retirement saving scheme, maintenance), since these did not apply to fixed-rate taxes. There are many other types of discrimination in the social protection field. Expatriates are not usually entitled to the benefits enjoyed by their compatriots in such areas as unemployment insurance, family allowances or guaranteed minimum income.

5.2 A few proposals for measures at national level

5.2.1. Encouraging expatriates to register

83. A first step would be to carry out a systematic survey of expatriates, as the Council of Europe Parliamentary Assembly has already asked all the member states to do. A common system for the collection and analysis of data should be established at European level. This would make it easier to analyse the sociological and economic determinants of flows and their effects on countries of origin. Steps should also be taken to encourage expatriates to register, possibly by simplifying procedures or introducing incentives, as is the case in France, which confines education and support grants to registered expatriates. The administrative formalities for registration should also be simplified, for example, by allowing people to register by post or via computer. Registration is generally optional (if not actually abolished, as it has been by the Netherlands) and is declining steadily in all but high-risk countries.

5.2.2. Increased political rights

84. The right to vote is an essential part of the democratic process, and every expatriate European should be entitled to exercise it fully in his/her country of origin. The first stage here should be to encourage expatriates to register as voters. But an information campaign on the right to vote abroad _ using announcements in the local press, mailed circulars or any other means _ is also vital to increasing participation. Other ways of curbing abstention, for example, by allowing postal voting and voting in consulates as alternatives or by simplifying the procedures for voting by proxy, should also be explored.

85. Political rights are not just a matter of having the vote, and expatriates must be given other ways of expressing themselves politically _ for example by participating in public debate, founding associations or being able to stand for election (under the Portuguese system expatriates may stand as candidates in elections in which they are not entitled to vote). It is particularly important that the right to vote abroad be backed by statutory guarantees (concerning, for example, the supervision of voting or the possibility of campaigning via mass mailings, the Internet, radio or satellite television).

86. The setting-up of advisory structures, along the lines of the state initiative model or the Swiss model, would help to keep governments in touch with the concerns of their expatriate communities, and would strengthen those communities' sense of nationality, channel information to them, and provide a forum for discussion of measures to assist them. In addition, thought might be given to setting up a committee responsible for questions relating to expatriates in national parliaments, as has been done in both houses of the Polish Sejm.

5.2.3. Practical support measures

87. A number of significant measures could be taken at little or even no cost. For example, the obligation of supporting expatriates is already written into many constitutions and, in Italy, into the charters of all the regional councils; other states might consider incorporating it into all their constitutional texts. They should also realise that making special provision for expatriates in their budgets (possibly using something like a parafiscal tax on passports to do this) is not an additional expense but a sound investment in the home country's cultural, linguistic, tourist, economic and commercial development.

Taxation

88. States should bear in mind the need to conclude or review tax agreements, to ensure that expatriates do not pay double taxes and also that both parties to these agreements apply them in exactly the same way. Care must also be taken to ensure that expatriates do not pay double social security contributions, and to modify certain tax or social security agreements to cover employment of spouses.

Social protection

89. Many countries have signed social security agreements providing for equal treatment of their nationals _ but have failed to back them with the necessary social guarantees, particularly in the matter of unemployment benefits. Sound social security arrangements are important, and states might well draw inspiration from the "Fund for French Nationals Abroad", which has set up a comprehensive social security scheme based on the criterion of nationality rather than territoriality, and providing social cover for groups which lacked it previously. Solidarity funds and allowances to assist integration or reintegration might also be considered.

Employment

90. Information and support structures for expatriate job seekers should be established in host countries, since this is where unemployed expatriates normally stand the best chance of finding work. These structures might be set

up within the framework of consular activities, like the French consular action committees for example, or within associations. Steps should also be taken to authorise _ or facilitate _ the employment of spouses of expatriate nationals, diplomatic staff or international civil servants.

Culture and communication

91. The new information technologies are developing at a breakneck pace, and can have highly positive effects on the organisation of expatriate communities, on their communications with home countries, and even on home countries' own consular practice. States should therefore lose no time in launching Internet sites to provide their expatriates with information (legal, practical, civic, cultural and linguistic). Communication between expatriates and school and university networks could also be developed on the Internet. Computer terminals and satellite antennae should be installed in all cultural centres and associations. These new technologies could be particularly useful in providing further education for adult expatriates and bilingual education for children.

92. Early teaching of the home country's language is vital, and this could be provided cheaply at neighbourhood level by setting up supplementary networks for children and training people to run them. Countries should also negotiate bilaterally on such questions as mutual recognition of diplomas or access to civil service employment. Attention should focus, too, on providing television and radio programmes for expatriates, making the media in home countries aware of expatriates' concerns, and promoting co-operation between newspapers and media in host and home countries.

Facilitating reintegration

93. Reintegration is one of the things on which successful expatriation depends, and states must be able to inform and establish regional agencies and also lay on guidance and information services, for example providing help with housing and cultural and vocational reintegration courses for returning emigrants. This calls for special legislation and long-term framework programmes. Comparing *de facto* situations reveals a tremendous diversity of national legislation in this field. In some successful experiments, returns have been made within the framework of bilateral agreements and support measures (information, training, grants) from both the host country and the country of origin (Turkey-Germany for example). In others, returns have been encouraged at the unilateral initiative of the immigration country ("assistance for return" programmes implemented by France and Germany in the 1980s). Certain host countries opposed such measures while others criticised them for constituting an element of psychological pressure, with the risk of generating an overall climate unfavourable to foreigners or even outbreaks of racism and xenophobia. Portugal provides a good example, having always accepted the voluntary return of its citizens and financially supporting them through loan schemes (for the purchase of property or investments), tax and customs facilities, in addition to a system of equivalences for school qualifications and facilitated access to state universities.

94. States must provide expatriates with full information on the possibilities available to them. It is vitally important that states foster free choice for their nationals as an inalienable right and implement policies of support for those wishing to return as well as for those wishing to integrate in another country while retaining links with their country of origin. In high-risk host countries, it is also important to provide for help with repatriation in emergencies, for example by setting up solidarity funds or insuring expatriates against freezing of their assets.

Nationality

95. Governments should take steps to make it easier for expatriates to recover their nationality of origin if they so wish, and should _ if they have not already done so _ accept the principle of dual nationality. They should sign and ratify the European Convention on Nationality.

Consular action

96. Since consulates symbolise the state of origin central to the lives of expatriate communities, they should not limit themselves to merely administrative functions. In addition to their traditional tasks (for instance concerning imprisoned, deceased or missing nationals, kidnappings, etc.), some countries' consulates provide a very wide range of services such as help for job-seekers, social protection, fiscal and legal information. Some of them publish regular news-sheets and sometimes even have doctors on the premises. They should at least be able to provide expatriates with information on their relations with the home country and on their rights and obligations in the host country. They should also listen to their problems and offer them moral support when they need it. For this purpose, consular staff should get regular, up-to-date training, particularly on guidance and support techniques.

5.3. Points to be considered at European level

5.3.1. The example of the European Union

97. Since the Council of Europe's member states will at some stage be joining the European Union, the latter might provide a reference framework for prospective study of the rights of expatriates from Council countries. Article 220 of the Treaty establishing the European Community provides that the member states are to enter into negotiations with each other with a view to securing for their nationals "the protection of persons and the enjoyment and protection of rights under the same conditions as those accorded by each State to its own nationals". Progressive extension to Council of Europe states of some of the regulations or instruments introduced or planned within the EU might also be considered _ even if the legal principles of freedom of movement are still very imperfectly applied.

98. In the matter of consular protection, Article 8C of the Maastricht Treaty states that every citizen of the Union "shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that State". This is a measure which costs little, which may even lead to savings on staff and resources, and which might be extended to Council of Europe countries. Many consular activities could in fact be usefully and easily brought together within a single consular centre.

99. In the field of education, the Council of Europe leads the way, and Resolution No. 2 on migrants' education, adopted at the 9th session (1975) of the Standing Conference of European Ministers of Education, recommends that governments give "migrants and their children, through the necessary incentives, an opportunity to acquire an adequate knowledge of the language and culture of both the host country and the country of origin". Similarly, Article 3 of Directive 77/486 of the European Communities on the education of the children of migrant workers provides that "Member States shall, in accordance with their national circumstances and legal systems, and in co-operation with States of origin, take appropriate measures to promote, in co-ordination with normal education, teaching of the mother tongue and culture of the country of origin".

100. Special television programmes might be envisaged. Several states produce these already, but co-operation and production networks at European level might be considered.

101. The new technologies should in fact make it possible to set up networks connecting, not just Europeans and their home countries, but also associations and bodies which represent Europeans.

5.3.2. Practical aid in places of residence

102. Efforts to harmonise migration policies and the legal situation of non-EU nationals within the EU need to be stepped up if freedom of movement in Europe is not to backfire on nationals of Council of Europe countries (outside the EU), residing on EU territory. Some of the machinery set up by the EU, such as Regulation No. 1408/71, which sets out to co-ordinate national social security systems for the purpose of permitting freedom of movement, could be progressively applied to Council of Europe member states. In this connection, it should be remembered that the Council's European Convention on Social Security provides for payments due under the law of any contracting state on the territory of another contracting state. The rights guaranteed to migrants in two other Council of Europe conventions – the European Social Charter and the European Convention on the legal status of migrant workers – should also be borne in mind.

103. European states could also seek an area of convergence, by granting certain residence rights or "citizens' rights" to non-nationals in host countries, regardless of a range of "national" rights linked to possession of nationality. This would mark a considerable step forward.

5.3.3. Improved political and institutional representation

104. Greater participation and improved representation at national level undoubtedly require an international legal instrument, a convention for instance, which could be prepared by the Council of Europe, defining joint positions on voting in each country and covering such questions as the possibility of campaigning or using public premises on polling day. Many states would like to be able to organise polling at several points in host countries, thus making it easier for their nationals far from the capital to participate, but run into some countries' refusal to make public premises available for that purpose. Switzerland and Germany, for example, prohibited all voting on their territory, even in consulates, for many years, but have recently lifted the ban.

105. Specific representation of European expatriates in the European institutions should be encouraged. Thus the Senior Council of the French Abroad has officially called, in the current debate on possibly changing the mode of election to the European Parliament and creating regional constituencies, for a special constituency for French nationals living abroad. Another possibility would be a transnational constituency in the European Parliament, reserved for Europeans resident abroad (which would allow EU nationals living outside the EU, who are currently unable to vote in the European elections, to participate).

106. Specific representation at the Council of Europe is also desirable – for example, a council of elected representatives of the various national institutions or associations, which could be integrated, as a third chamber, within the Congress of Local and Regional Authorities of Europe.

5.3.4. Thinking about the concepts of nationality and citizenship

107. Finally, and far more ambitiously, the implications and significance of the concepts of nationality and citizenship in the building of Europe need to be explored in depth. For although, in the Council of Europe's 1997 European Convention on Nationality, the terms "citizenship" and "nationality" are used to denote the same thing – the legal connection which exists between a person and a state – there are countries where "state" and "nation" are not the same thing, and citizenship can apply to several legally recognised nationalities.

108. Many problems could certainly be solved by making a clear distinction between two sets of rights – those linked with residence in a given geographical area ("citizenship rights") and those linked with possession of a given cultural, civic and national identity – and disregarding the traditional definition of the sovereign state, based on the concept of territory.

109. This should hold the key to solving the problem of non-EU nationals on EU territory: all residents might, after spending a specified number of years in a

member state, be granted European citizenship, carrying certain residence, social, civic and political rights, with rights pertaining to nationality (and thus attributable to European expatriates) remaining the member state's prerogative. European citizenship, being closely bound up with residence for a jointly agreed minimum period, could be lost by expatriates returning for good to home countries outside the EU. But it would also be granted automatically to all EU nationals, whether or not they lived on European Union territory.

110. This distinction could also help to solve the problem of minorities, which has become crucial, following the collapse of the communist system in central and eastern Europe.

111. In the long term, consideration of this issue could help to reduce disparities between the nationality laws of European countries, which are a major obstacle to introduction of a joint policy on, and a joint legal basis for, expatriation. At the same time, it would be advisable, as part of a European legal system which is changing radically, to introduce genuine European regulations on expatriation, comprising a series of inalienable fundamental rights.

6. Conclusion

112. At a time of globalisation of cultural and economic exchanges, when international political relationships are unstable and trans-European migration flows are increasing sharply, it is up to states to think about ways of allowing for expatriation in their national and international policies. Their external initiatives cannot be reduced to a foreign and diplomatic policy with no coherent aims in this area.

113. Moving in this direction is justified for two reasons: firstly, a state cannot stop taking an interest in its nationals, even when they live abroad; secondly, full participation of expatriates in the political life of their home countries is the expression and culmination of a successful democratic process. It would be useful too, since strengthening of the ties between states and their nationals abroad cannot fail to benefit both sides - particularly states, which could rely on highly-motivated and effective contact networks in other countries.

114. Of course, the efforts made to reinforce the ties between states and their nationals abroad may give rise to certain costs, at a time when many states are bent on cutting public spending. One needs, in other words, to consider how much the measures contemplated in this area are going to cost, and make sure, both that the resources allocated match the priorities set, and that the results match the action taken. At the same time, initiatives by states to achieve closer links with their expatriates must be seen as a sound investment in terms of cultural, linguistic, economic, financial, tourist and commercial development.

Reporting committee : Committee on Migration, Refugees and Demography.

Budgetary implications for the Assembly : none.

Reference to committee: Order No 495 (1994)

Draft recommendation unanimously adopted by the committee on 26 February 1999.

Members of the committee: Mr *Díaz de Mera* (Chairman), Mr *Iwiński*, (Vice-Chairman), Mrs *Aguiar*, MM. Akselsen, Amoruso (Alternate: *Olivo*), Árnason, Mrs Arnold, MM. Atkinson (Alternate: *Hancock*), Aushev, Beaufays, Mrs Björnemalm, MM. Bogomolov, *Brancati*, Branger, Mrs *Brasseur*, Mrs *Busiæ*, MM. Chiliman, *Christodoulides*, *Chyzh*, Cilevics, Clerfayt, *Connor*, *Debarge*, *Dinçer*, Mrs Dumont, Mr Einarsson, Mrs Fehr, MM. Filimonov, Ghilechi, Gyürk, Jakic, *Lord Judd*, Mrs Karimi (Alternate: *Jurgens*), Mrs *Karlsson*, MM. Koulouris (Alternate: *Korakas*, Vice-Chairman), *Kozłowski*, Kukk, Laakso, Mrs Langthaler, MM. *Lauricella*, *Liapis*, Luís, Mrs Markovska, MM. Mateju, Melo, Minkov, Mularoni, Mutman, *Ouzky*, Pullicino Orlando, Rakhansky (Alternate: *Strizhko*), Mrs *Rastauskiené*, Mrs Roth, MM. von Schmude, Sincai (Alternate: *Paslaru*), *Tabajdi*, Tahir, Mrs Terpstra, MM. Thönnnes, *Tkác*, Mrs Vermot-Mangold (Alternate: *Gross*), Mr Wray (Alternate: *Lord Ponsonby*).

N.B. The names of those members present at the meeting are printed in italics.

Secretaries of the committee: Mr Newman, Mrs Nachilo, Mr Adelsbach.