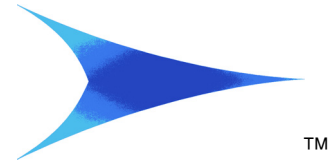


# **The Southern Cross Group**

*Promoting Mobility in the Global Community*

*www.southern-cross-group.org*



**First Supplementary Submission to the Australian Senate's  
Legal and Constitutional References Committee**

## **Inquiry into Australian Expatriates**

**Research by  
The Committee on Migration, Refugees and Demography  
of the  
Council of Europe Parliamentary Assembly  
on**

## **Links Between Europeans Living Abroad and Their Countries of Origin**

Brussels and Canberra  
29 March 2004

***The Southern Cross Group is an international volunteer-run non-profit advocacy and support organisation for the Australian Diaspora***

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## Introduction

The purpose of this first supplementary submission by the Southern Cross Group (SCG) is to bring to the attention of the Committee the work undertaken in recent years by the Committee on Migration, Refugees and Demography of the Council of Europe's Parliamentary Assembly in relation to links between Europeans living abroad and their countries of origin.

## What is the Council of Europe?

It is important at the outset to understand that the Council of Europe (CoE) is not synonymous with the European Union. It is an independent organisation of 45 European member countries which happens to include the present 15, soon to be 25, Member States of the European Union.

It is well described in the following extract from a paper<sup>1</sup> prepared in 2000 by Anne Burnett of the University of Georgia School of Law Library:

“The CoE formed on May 5, 1949, when ten countries signed the treaty constituting the Statute of the Council of Europe. That number has now increased to 41 (now 45 in 2004) Member States, from Albania and Andorra to the Ukraine and United Kingdom. The CoE plays an important role in strengthening democracy, human rights, the rule of law and Europe's cultural heritage in its Member States. In its first three decades, the CoE was primarily an international organization comprised of western European members and concerned with western European issues, but the 1980s and 1990s saw the CoE assume a new role in the democratization of central and eastern Europe. With the accession of the Russian Federation in 1996, the CoE's important role in an enlarged Europe became even more evident.

“Despite its importance in the social and cultural dimensions of Europe, the CoE is often overshadowed by the myriad of other regional European

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<sup>1</sup> *Guide to Researching the Council of Europe*, Anne Burnett, Reference/Foreign and International Law Librarian, University of Georgia School of Law Library, 17 April 2000 available at <http://www.llrx.com/features/coe.htm>  
Note that the links in the paper to various CoE websites are no longer accurate. The CoE internet portal is to be found at <http://assembly.coe.int/>

organizations, most notably the European Union and its predecessor communities. Researchers often confuse the institutions and documentation of these organizations. With the hope of providing some clarification, we offer the following table:

<b>Major Council of Europe Institutions</b>	<b>Major European Union Institutions</b>
Committee of Ministers (ministers of foreign affairs from each member state)	Council of the European Union or Council of Ministers (member state representatives, usually foreign affairs ministers)
	European Commission (elected members)
	European Council (member state heads of state)
Parliamentary Assembly (appointed or elected members)	European Parliament (elected members)
European Court of Human Rights	European Court of Justice
European Commission of Human Rights	
	Economic & Social Committee

## 1999 Report

The SCG first noted the work of the Committee on Migration, Refugees and Demography several years ago through its 1999 report on *Links Between Europeans Living Abroad and Their Countries of Origin*,<sup>2</sup> attached as Appendix A to this submission.

That report documents extensive research on the approach taken by a number of member states within the Council of Europe with respect to their diasporas. There is also an assessment of the pros and cons of the significant issues relevant to diasporas generally, such as:

- migration
- national attitudes
- structural measures
- cultural and linguistic initiatives
- the right to vote
- specific representation in Parliament
- institutional representation
- problems encountered by expatriates
  - problems linked with the laws on nationality
  - the difficulty of exercising political rights
  - social and fiscal discrimination
- proposals for measures at the national level
  - taxation
  - social protection
  - employment
  - culture and communication
  - facilitating reintegration

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<sup>2</sup> Doc 8339 Report on Links Between Europeans Living Abroad and Their Countries of Origin, Committee on Migration, Refugees and Demography of the Council of Europe Parliamentary Assembly, 5 March 1999 available at <http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2FDocuments%2FWorkingDocs%2FDoc99%2FEDOC8339.htm>

- consular action
- the example of the European Union
- practical aid in places of residence
- improved political and institutional representation
- concepts of nationality and citizenship.

As the 1999 report contained much of relevance to the Australian Diaspora issues on which the SCG has campaigned in the past, we have cited it as supporting evidence in a number of our earlier submissions to various government bodies.

### **2004 Report**

The Committee has recently published its 2004 report on the same subject which comments on changes which have taken place since the preparation of the previous report.<sup>3</sup> There is also, again, extensive additional discussion on many general diaspora issues which can be easily translated into the context of the Australian Diaspora. The 2004 report is attached to this submission as Appendix B.

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<sup>3</sup> Doc 10072 on Links Between Europeans Living Abroad and Their Countries of Origin, Committee on Migration, Refugees and Demography of the Council of Europe Parliamentary Assembly, 12 February 2004 available at <http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2FDocuments%2FWorkingDocs%2FDoc04%2FEDOC10072.htm>

## March 2004 Recommendation by the Parliamentary Assembly

The Standing Committee of the Parliamentary Assembly of the Council of Europe has considered the report and on 2 March 2004 issued a recommendation<sup>4</sup> to the Council of Ministers in the following terms:

“... the Assembly recommends that the Committee of Ministers:

- i. invite member states to:
  - a. review their emigration policies and solutions in the field of relations with their expatriates with a view to improving and strengthening them;
  - b. establish institutional links with expatriate communities if it has not already been done, aimed at enabling them to defend their rights, express their opinions and influence any decisions which might concern them;
  - c. take account of their expatriates' interest in policy-making, in particular concerning questions of nationality, political rights including voting rights, economic rights as well as taxation and pensions, social rights including social schemes and cultural rights;
  - d. encourage and support the activities of expatriate associations and NGOs;
  - e. promote and support all forms of co-operation with their expatriate communities.
- ii. promote an exchange of views and co-operation between Council of Europe member states as regards political, legal, economic, social and cultural measures aimed at strengthening the links between European expatriates and their countries of origin;
- iii. review the existing models of relations between expatriates and their countries of origin, with a view to making proposals for the introduction of legally binding

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<sup>4</sup> Recommendation 1650 (2004), Links Between Europeans Living Abroad and Their Countries of Origin, Standing Committee of the Parliamentary assembly of the Council of Europe, 2 March 2004 available at <http://assembly.coe.int/Main.asp?link=http%3A%2F%2Fassembly.coe.int%2FDocuments%2FAdoptedText%2FTA04%2FEREC1650.htm>

measures at the European level;

iv. consider the elaboration and implementation of specific programmes and projects aimed at encouraging qualified expatriates from particular countries to return to their country of origin;

v. initiate the establishment, under the auspices of the Council of Europe, of a Council of Europeans abroad, a body representing European expatriates at the pan-European level;

vi. initiate the elaboration and establishment of a pan-European, harmonised system for collecting statistics on the nationals of Council of Europe member states living in other Council of Europe member states;

vii. clarify different administrative concepts, classifications and definitions concerning expatriates with a view to harmonizing them at the European level;

viii. involve associations and NGOs in activities concerning expatriates.

## **Conclusion**

The Southern Cross Group commends the two Council of Europe reports and the resulting recent Recommendation by the Council of Europe's Parliamentary Assembly to the Senate's Legal and Constitutional References Committee for consideration in the context of the current Inquiry into Australian Expatriates.

Southern Cross Group  
Brussels and Canberra  
29 March 2004