

# A Regional MIPEX Assessment of the Western Balkans

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# INTRODUCTION

## **What is the Migrant Integration Policy Index?**

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

The Migrant Integration Policy Index (MIPEX) is a reference guide and a fully interactive tool to assess, compare and improve integration policy. It measures integration policies in 40 countries in Europe and North America in order to provide a view of integration policies across a broad range of differing environments. MIPEX was developed in these countries by the British Council and the Migration Policy Group (MPG). Using 148 policy indicators, MIPEX establishes the extent to which all residents are legally entitled to equal rights and responsibilities, as well as to any support that addresses their specific needs to make equal opportunities a reality.

## **Uses for policymaking**

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

## **What are the highest standards used by MIPEX?**

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

## **How does MIPEX obtain its scores?**

The 167 policy indicators have been designed to benchmark current laws and policies against the highest standards through consultations with top comparative researchers as well as international and European institutions. A policy indicator is a question relating to a specific policy component of one of the 8 policy areas. For each answer, there are 3 options. The maximum of 3 points is awarded when policies meet the highest standards for equal treatment. A score of 2 is given when policies lie halfway

to the highest standards, and a score of 1 is given when they are furthest from the highest standards. Where a country has no policies on a specific indicator, it is given a default value of 1.

Within each of the 8 policy areas, the indicator scores are averaged together to give one of 4 dimension scores which examine the same aspect of policy. The 4 dimension scores are then averaged together to give the policy area score for each of the 8 policy areas per country which, averaged together one more time, lead to the overall scores for each country. In order to make rankings and comparisons, the initial 1-3 scale is converted into a 0-100 scale for dimensions and policy areas, where 100% is the top score.

#### **MIPEX key legend (0-100)**

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

#### **Who gathered the data?**

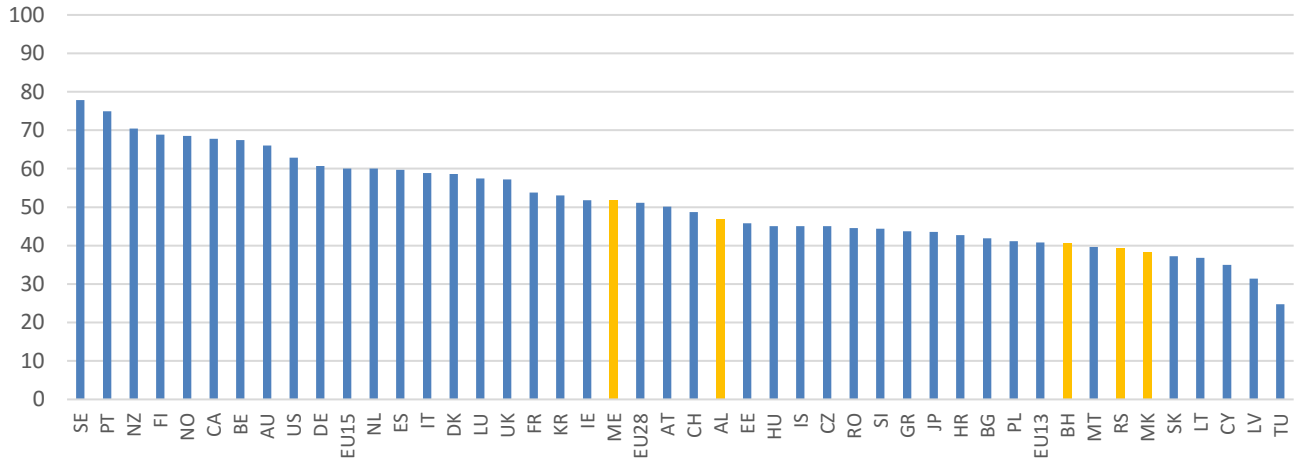
Unlike indexes based on expert opinion, MIPEX is based on public laws, policies and research. In every country, independent experts in migration law, education and anti-discrimination, filled out the score for each indicator based on the country's publically available documents as of 31 December 2015. All scores were then peer-reviewed by a second expert.

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

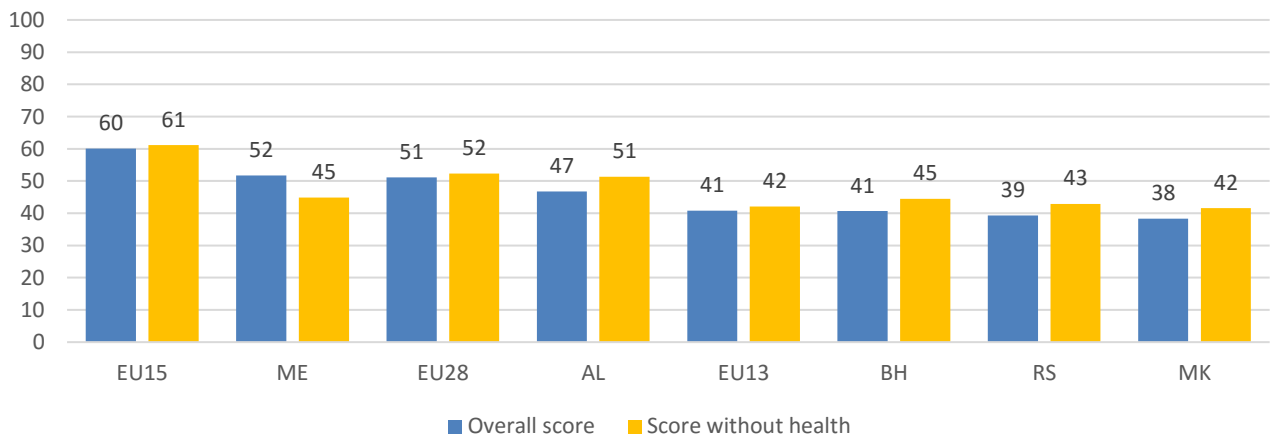
# A MIPEX assessment

## OVERVIEW

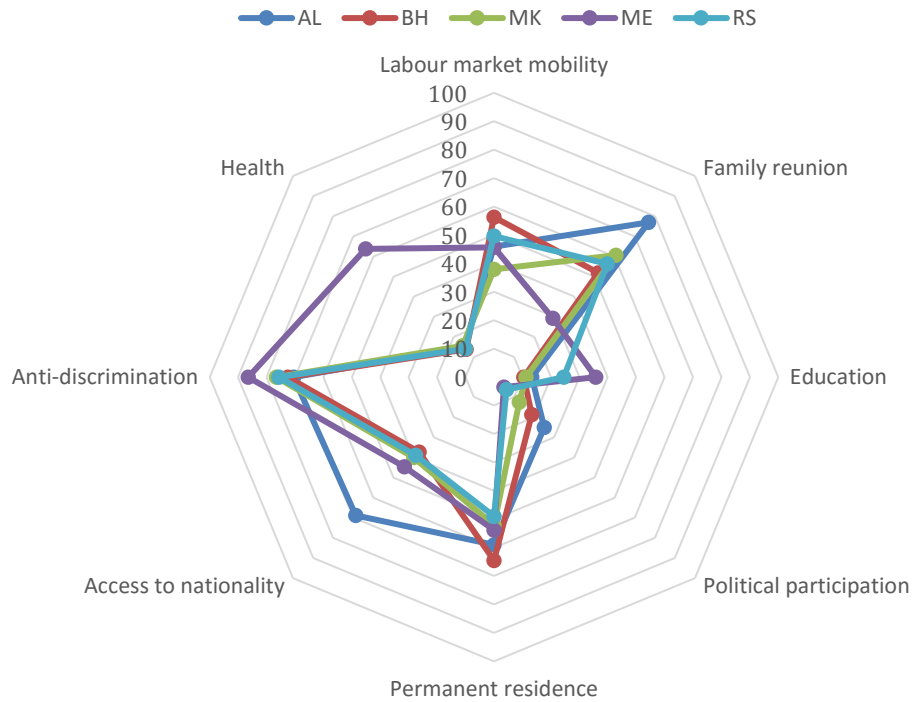
MIPEX Overall Score



MIPEX Western Balkans

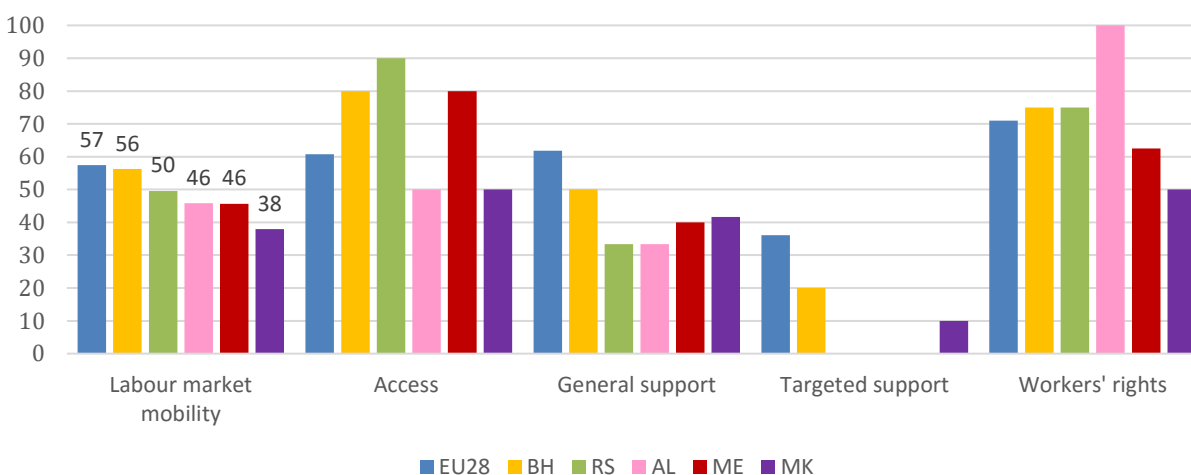


## MIPEX Overall Score



Integration policies in the Western Balkans are barely halfway favourable for societal integration, scoring below the European average and alongside other ‘new’ immigration countries in MIPEX, such as Bulgaria, Hungary, Poland, Romania and the Czech Republic. Newcomers in these countries will face slightly more obstacles than opportunities to participate in society. These countries are at different stages of their EU accession, with Croatia as the newest Member State. Interestingly, the policies that could contribute the most to integration are EU law-driven. Despite these improvements, the conditions in law are undermined by authorities’ rather discretionary procedures in all Western Balkan countries, a problem across Central and Eastern Europe. In addition to the negative impact of this uncertainty on integration, newcomers critically lack many basic citizenship, education and political opportunities that are becoming best practice across Europe.

## LABOUR MARKET MOBILITY

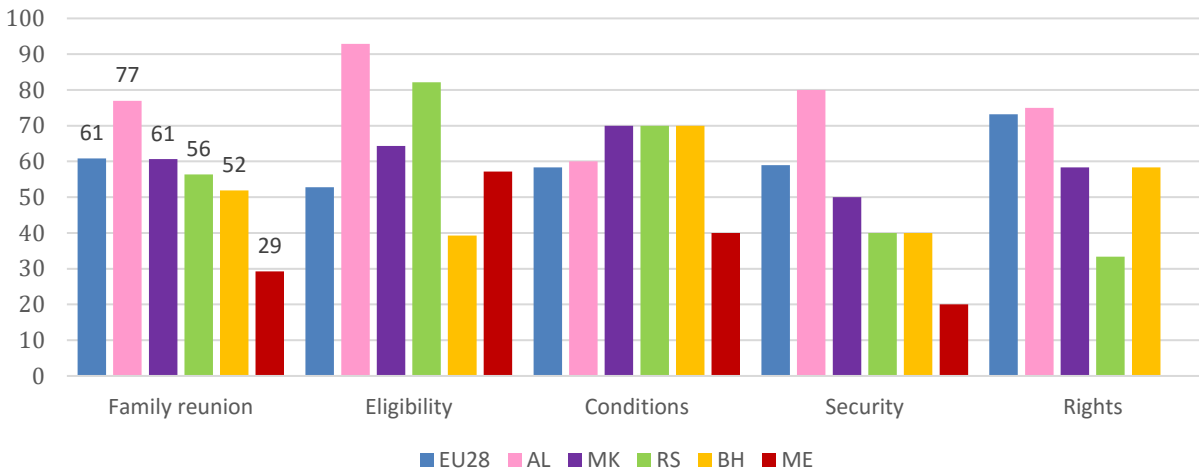


These countries' legislation do not reflect these EU legal standards, even though most are candidates for EU membership. Although long-term residents in Serbia obtain equal access to employment, they have some of the weakest rights in Serbia compared to most MIPEX countries. They do not have equal access to social security and health care, unless their country of origin has signed international agreements. Under EU law, long-term residents must enjoy equal rights to employment, education and vocational training, study grants, unemployment benefits, social security, and access to goods and services available to the public, including housing.

In all Western Balkan countries assessed with MIPEX, some categories of temporary migrant workers do not have immediate access to employment and the right to change jobs and sectors, and thus cannot fully contribute to the economy of their respective country. In contrast, many new immigration countries in MIPEX, such as Italy, Portugal, Spain, are increasingly opening equal access to the labour market to all legal temporary residents, granting newcomers nearly equal opportunities to change jobs and careers. In several countries, temporary migrants cannot benefit from public employment services, adult education, or vocational training on an equal footing with nationals and long-term residents. Moreover, hardly any targeted support is available for them in these countries. As a result, temporary migrant workers could spend years trapped in a job below their qualifications, and their skills and ambitions would go to waste.

General and targeted support for migrant workers is already more favourable than average in several new immigration destinations, including Portugal, Spain, Estonia and Romania. Immigrants in Portugal, for instance, can learn how to use their rights in cases of exploitation through the Legal Aid for Immigrants Office of the National Immigrant Support Centre. They benefit from many targeted measures included in the National Plan for Immigrant Integration and delivered mainly by the High Commissioner for Immigration and Intercultural Dialogue (ACIDI). The Plan gives special attention to vulnerable groups such as immigrant youth, promoting equal opportunities through equal access to work and training. It also recognises the potential of migrant women as entrepreneurs. Another positive example from Central Europe could be found in Estonia. Its programmes help all Estonian residents, especially youth, find jobs or training, get their qualifications recognised, improve their language skills for their profession and meet other professionals in their field. Its integration strategy's target is to reduce any differences in employment and income for Estonia's residents, whatever their nationality.

## FAMILY REUNION

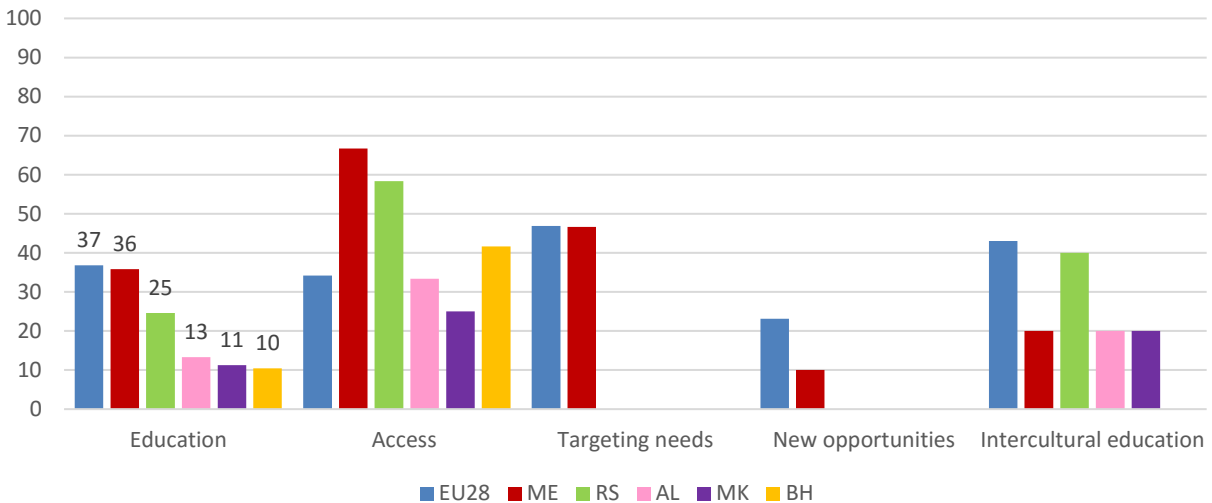


Council Directive 2003/86/EC on the right to family reunification has had an impact on the family reunion policies in most Western Balkan countries. Sponsors in all four countries can apply for their spouse and minor children, following the Directive’s minimum standards.

As in many Central European countries, these countries create few legal obstacles for non-EU citizens to apply for family reunion, but maintain very discretionary procedures with many grounds for authorities to reject their application or withdraw their permit. Procedures that lack explicit rules give discretion to the administration and pose a risk of abuse, contrary to the rule of law principles. Furthermore, applicants are never fully prepared as they do not know what they will be asked during a procedure and can never feel secure in their status. EU law limits authorities’ discretion and the number of vague grounds for refusal or withdrawal of a permit. Authorities need to consider the family’s personal circumstances, the solidity of the sponsor’s family relationship, the duration of residence and existing links with the country of origin, which is not the case in the four Western Balkan countries (see for instance PL, CA, IT, ES).

Immigrants in these countries have limited access to autonomous residence permits in case of widowhood, divorce or violence, and in Serbia they are not even entitled to an independent status, which is not in conformity with EU standards. Austria and the Netherlands for instance, provide entitlements in cases of death, divorce, separation and violence, while several other countries (e.g. FR, PT, ES, SE, NO, US) are introducing a clearer automatic right to autonomous residence for all families after a few years.

## EDUCATION



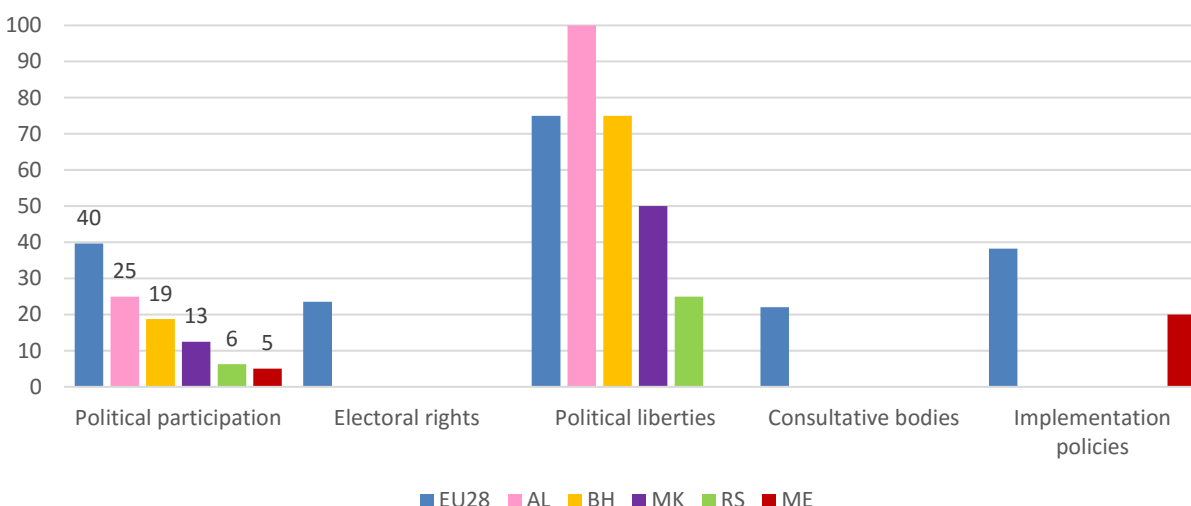
Beyond legal access to the school system, the Western Balkan countries provide hardly any integration measures for the specific needs of immigrant children, unlike in most new immigration countries in Southern and Central Europe. Schools in most Western Balkan countries are not prepared to meet the needs and opportunities that immigrant students bring, and do not encourage their contribution to society. In these countries, even though intercultural education is an official policy aim, it is largely absent from the curriculum and school life. If there is any government support for cultural diversity promotion, it depends on ad hoc funding, and immigrant integration is mainly done through initiatives of NGOs and international organisations.

The lack of integration measures to meet the specific needs of migrant children could have severe consequences for their life as adults. Due to the lack of language support in most of these Western Balkan countries, they can never properly learn the language of the host society. If teachers are not trained, are not from diverse backgrounds themselves or do not have any resources at their school, they cannot reach out to parents with different languages and backgrounds, and are not equipped to handle diversity in their school. Immigrant children from these Western Balkan countries can easily end up in under-performing schools and at the lowest educational level. They are at risk of dropping out of school and, as early school leavers are less likely to find a job, they are at greater risk of social exclusion.

Most MIPEX countries, including some Central European countries, provide additional tuition for immigrant pupils to master the official language of the country, additional funding or teachers for schools with immigrant pupils, and teacher trainings on immigrants' needs and intercultural education. Most other countries also support the teaching of immigrant languages and cultures during the school day. Estonia for instance, provides all newcomer pupils with compulsory, continuous, and standardised support to learn Estonian, as well as their own language and culture. Similarly, in Czech law, language courses should be needs-based, professionally taught and regularly evaluated, while mother tongue and culture classes should be available. Czech teachers can integrate multicultural education into their curriculum through state-supported pedagogical materials and teacher trainings, like the much-used information portal ([www.czechkid.cz](http://www.czechkid.cz)). Slovakia also recently introduced 'multicultural education' into its curriculum, as well as intercultural education trainings for qualifying and working teachers.



## POLITICAL PARTICIPATION



Democratic participation of migrants favours integration and the earlier migrants are given the opportunity for democratic participation, the more likely they are to participate and integrate.<sup>1</sup> The 1992 Council of Europe “Convention on the participation of foreigners in public life at the local level” (ETS No. 144) is the only European legal standard that is directly relevant for the political participation of non-EU immigrants.<sup>2</sup> They are guaranteed equal rights to media and political association, some sort of consultative body elected or appointed by their own communities, and local passive voting rights after maximum 5 years’ residence. Albania is the only Western Balkan country that ratified the Convention.

Political participation is an area of weakness for integration policy in all Western Balkan countries and most new countries of immigration. If foreigners do not naturalise, they are largely excluded from opportunities to participate in public life in these countries. Except for in Albania and Bosnia and Herzegovina, non-EU nationals cannot join political parties, unlike in most countries of immigration, including the Czech Republic, Estonia and Slovenia. Moreover, they cannot benefit from any form of structured consultation with foreigners on integration policies, even on the basis of pilot projects, as in Greece and the Baltics.

There are many examples of good practices from the new countries of immigration in Central and Southern Europe, which have granted long-term residents the right to vote in local elections (Czech Republic in 2001, Estonia and Slovenia in 2002) and to stand as candidates in local elections (Lithuania in 2002 and Slovakia in 2003). Most countries have used the new European Integration Fund to support associations working on integration. Local and national authorities have started a dialogue and consultation with associations of foreign residents. Examples range from Portugal and Spain to Ireland, Greece, Estonia, Latvia, and Poland. For instance, the Spanish Forum for the Social Integration of Immigrants has an independent chair and issues opinions or reports on any drafts affecting social integration.

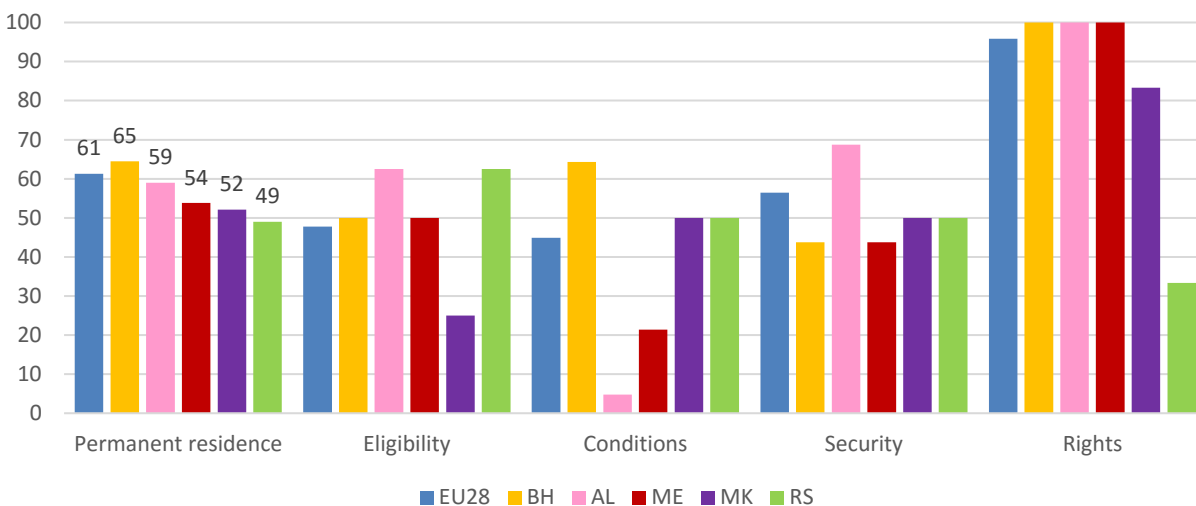
<sup>1</sup> See Parliamentary Assembly Resolution 1618 (2008), State of democracy in Europe. Measures to improve the democratic participation of migrants, available at:

<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta08/ERES1618.htm>

<sup>2</sup> Voting rights for immigrants: Next Stop, Berlin?, available at

<http://www.mipex.eu/blog/voting-rights-for-immigrants-next-stop-berlin>

## LONG-TERM RESIDENCE

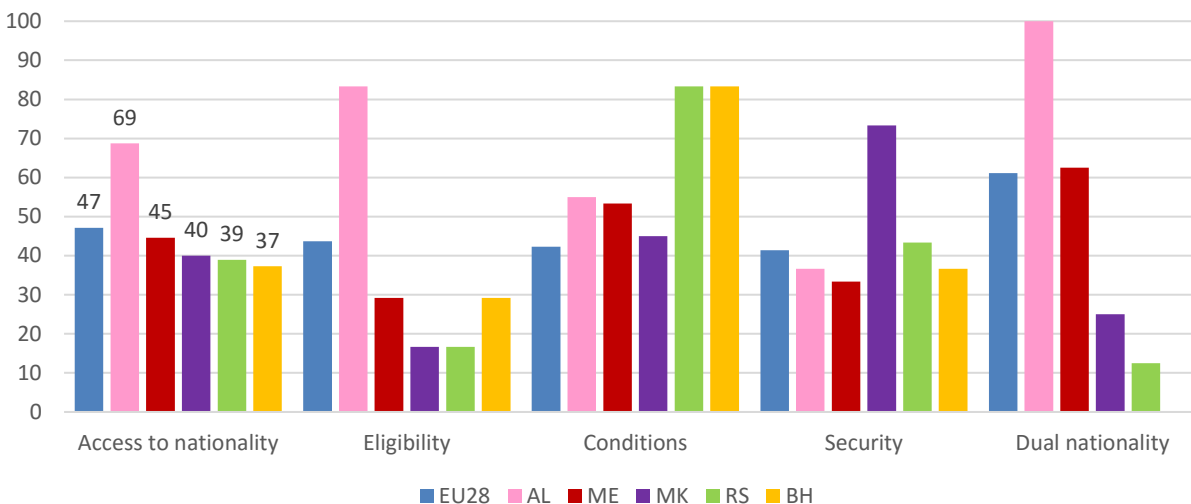


EU Member States agreed and implemented the EC long-term residence directive (2003/109/EC), with the common objective that the integration of long-term residents will promote economic and social cohesion. Most legal immigrants should be eligible to apply after 5 years for equal opportunities to integrate in economic and social life. This is not the case in the Western Balkans, where several categories of temporary permits are not considered for the 5-year residence requirement. As in the case of family reunion procedures, applicants who meet the legal conditions in these countries can still be rejected and can lose their residence permit on several grounds due to state discretion that is common in the region. They also have few protections against expulsion. Therefore, migrants in most of the Western Balkan countries do not enjoy the security of status that is afforded by the Directive.

The conditions are especially unclear in Albania. Applicants in Bosnia and Herzegovina need to meet a vague language requirement. The 2009 CZ language test for long-term residence is an example for a good practise in terms of integration requirements, aimed to ensure equal and reasonable conditions. With an attainable level (A1), free support and professional examiners, this model creates conditions for applicants to succeed, rather than creating more bureaucratic obstacles.

Since the adoption of the Directive, several new immigration countries introduced the entitlement to long-term residence for most temporary residents. For example, Spain opened equal chances for former students trained for its labour market to settle there. Portugal's 2007 law opened long-term residence to nearly all categories of legal residents and protects from deportation anyone born in the country, living there since childhood, or raising their children there. Minors cannot be expelled in Slovenia (see stronger legal protections in Australia and several Western European countries).

## ACCESS TO NATIONALITY



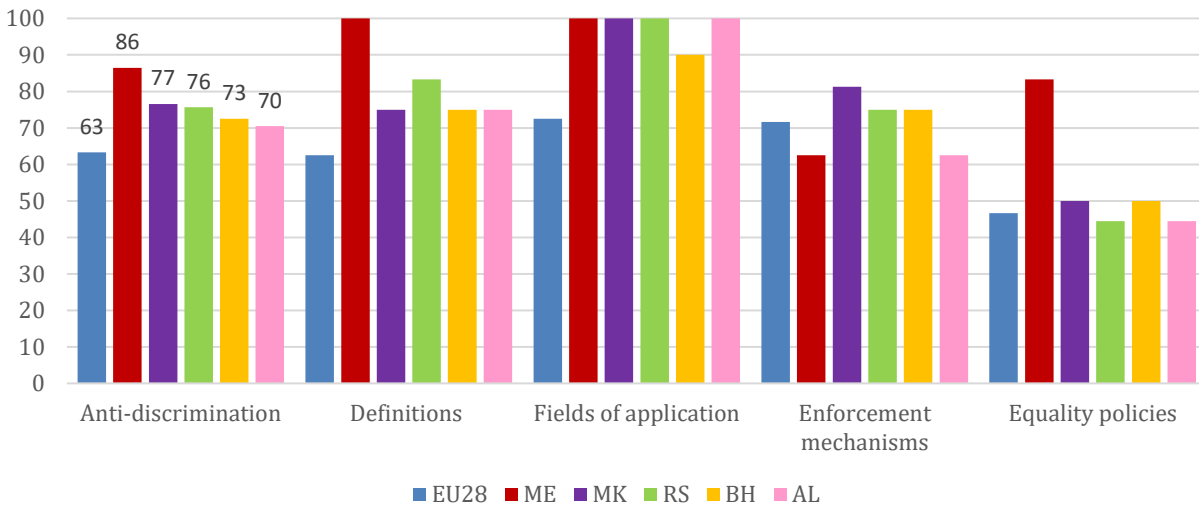
The Council of Europe 1997 Convention on Nationality n.166 provides the only legal standards on national citizenship in Europe. Even though it is designed more to address loss of citizenship than acquisition, its provisions limiting administrative discretion, stateless, and grounds for withdrawal would still slightly improve security of citizenship in Central and Eastern Europe. However, the Convention would have no effect on eligibility, conditions, or dual nationality. Albania, Bosnia and Herzegovina and FYROM have ratified the Convention.

In Balkan countries immigrants face discretionary paths to citizenship, usually including the renunciation of their previous citizenship. These discretionary provisions make it really hard for the applicants to succeed. Research has shown that the application and decision-making procedure can affect the rate of citizenship acquisitions as much as the legal conditions.<sup>3</sup> Many of the applicants for naturalisation in these countries, with the exception of Albania, are forced to give up their original nationality, contrary to the trend in the majority of MIPEX countries. Furthermore, immigrants' children are not automatically entitled to nationality at birth, as they would be in the majority of MIPEX countries, including Albania.

Dual nationality and some form of birthright citizenship are becoming the norm in most established countries of immigration across Europe. Newcomers in 18 of the countries assessed according to MIPEX III are entitled to dual nationality, among which France, the United Kingdom, Ireland, Canada and the United States. More and more countries in last decades are reforming their legislation to embrace dual nationality, e.g. Sweden, Finland, Luxembourg, Italy, Switzerland and more recently Czech Republic and Poland. In 2006 Portugal's Parliament approved a coherent approach to reform access to nationality, which can serve as a model for new reforming countries. Favourable conditions once reserved for people from Portuguese speaking countries were opened to all residents speaking basic Portuguese. Liberalisation in this regard is planned also in Denmark.

<sup>3</sup> See Access to Citizenship and its Impact on Immigrant Integration: [http://eudo-citizenship.eu/images/acit/acit\\_report\\_eu%20level%20summary.pdf](http://eudo-citizenship.eu/images/acit/acit_report_eu%20level%20summary.pdf)

## ANTI-DISCRIMINATION



Since passage of landmark EU legislation (Directives 2000/43/EC and 2000/78/EC), great progress has been made in all European MIPEX countries, especially Central European and new immigration countries. Positively, in line with the EU directive, victims of discrimination in the Western Balkans can benefit from NGO assistance, shifts in the burden of proof, alternative dispute resolution procedures and wide-ranging sanctions to prevent, discourage or correct discrimination.

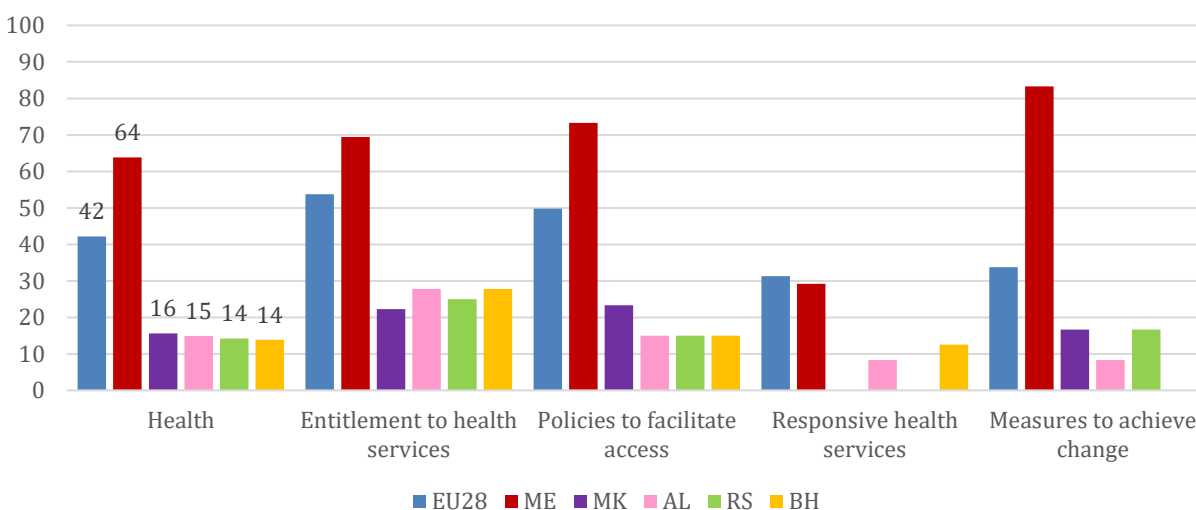
Serbia and FYROM have enacted broad anti-discrimination laws, protecting people against most forms of discrimination in all areas of public life. Bosnia and Herzegovina's anti-discrimination legal frameworks contain some of the EU law basics but lack specific additional provisions that would make protection for foreigners against discrimination even more effective. For example, people in Bosnia and Herzegovina and Croatia are not protected against nationality (citizenship) discrimination and racial profiling, unlike in half of the MIPEX countries.

Unlike Serbia and FYROM, the other Western Balkan countries have established equality bodies with rather weak powers. The equality bodies in both countries can give legal advice to victims, investigate the facts of a case, instigate proceedings in their own name, but cannot make binding decisions and enforce findings, unlike equality bodies in Bulgaria and Hungary.

As in many European countries, the major weaknesses in implementation concern the equality policies. The governments of the Western Balkan countries could do more to promote equality through social and civil society dialogue, equality duties, and compliance monitoring (see PT, ES, UK, and Nordics and practices in Montenegro).

There are many good practices in the new countries of immigration, that now have strong and independent equality bodies. Romania's National Council on Combating Discrimination is an independent administrative body with a jurisdictional mandate. Hungary's Equal Treatment Authority also has legal standing to intervene on behalf of the complainant, while instigating its own procedures against certain public bodies. In the policymaking process, Bulgaria's Protection against Discrimination Commission can submit binding recommendations to the parliament and government to prepare bills and abolish discriminatory laws.

## HEALTH



Most Western Balkan countries (including Croatia and Slovenia) are unfavourable at integrating and orienting newcomers into the health system and addressing any of their specific health needs. Targeted migrant health policies are among the weakest in all MIPEX countries, far below average even for Central Europe. Major legal and administrative obstacles undermine the entitlements for certain categories of migrants, while migrants' specific health needs may be (mis)perceived as limited. It is noteworthy that countries like Montenegro and Turkey have scores that are comparable with those in EU Member States, thanks to a drive towards universal coverage.

Many weaknesses on migrant health policy emerge in Central Europe and accession countries. Access for legal migrants, asylum-seekers and undocumented migrants are often blocked through discretion and complicated documentation in practice (see instead Romania and Western European countries). Migrants facing problems with access can turn to few policies for help (see instead other Southern European countries). Services are unresponsive to migrants' specific needs (see instead Austria, Czech Republic, Hungary, Italy, Malta, Portugal and Spain). Weak policies discourage access in HR more than in all MIPEX countries, alongside only DE, SI and a few other Southeast European countries (see instead Western Europe, IT, MT, PT, ES). Integration policies are not encouraging services to be more accessible or responsive, as migrant health is critically weak in these countries' immigrant and refugee integration strategies, with perhaps the exception of Montenegro.