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Jean-Michel Lafleur  
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# Migration and Social Protection in Europe and Beyond (Volume 2)

Comparing Consular Services and  
Diaspora Policies

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Editors

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and Diaspora Policies

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*Editors*

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Liege, Belgium  
15 May 2020

Jean-Michel Lafleur  
Daniela Vintila

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# Chapter 1

## Do EU Member States Care About their Diasporas' Access to Social Protection? A Comparison of Consular and Diaspora Policies across EU27



Jean-Michel Lafleur and Daniela Vintila

### 1.1 Introduction

Do sending states care about the well-being of their citizens residing abroad? In recent years, numerous studies have examined sending states' policies and institutions targeting non-resident nationals. To underline the fact that such policy arrangements and initiatives generally concern individuals sharing some form of heritage with a homeland of which they may or may not hold nationality, they tend to refer to this population as diaspora (Adamson 2019). In documenting the growth in sending states' activism and creativity in engaging with this population, scholars have identified several explanatory variables including increasing mobility, economic dependence on migration (especially remittances), democratization, the desire to gain political support from citizens abroad, or a shift to neo-liberal modes of government (Ragazzi 2014).

In this introductory chapter, we argue that existing attempts to classify states' engagement with citizens abroad face four important limitations. First, past studies focused mainly on policy innovations developed by sending states to engage with citizens abroad in areas such as citizenship, education, business, culture or religion. This hinders the possibility of generalising existing classifications to other specific policy areas that are of key interest for the diaspora, such as the one of social protection. While recent work has acknowledged the existence of sending states' policies aiming to respond to the social risks faced by non-resident citizens (Delano 2018),

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the role of welfare institutions in their design and implementation has not received sufficient scholarly attention. Second, existing studies do not engage sufficiently with the concept of consular assistance that, despite the limitations set by the 1963 Vienna Convention on Consular Relations,<sup>1</sup> still varies greatly in its availability and content across states. Third, whether it draws on small or large-N studies, past research mainly focused on sending states from the Global South, therefore failing to notice developments in this area in the North and particularly among European Union (EU) Member States. Finally, the focus on the nation state overlooks the fact that sending states' ability to respond to the needs of citizens abroad can be seriously constrained or triggered by regional integration dynamics (such as the EU), intergovernmental bodies (such as the International Organization for Migration) or complemented by policies adopted by sub-national public entities.

This volume focuses on EU Member States' engagement with their diaspora in the field of social protection. To do so, we use the concept of diaspora infrastructure to identify how engaged sending states are in addressing the social risks faced by populations residing abroad in five key areas of social protection: health, employment, old age, family, and economic hardship. For each EU Member State, authors closely examine the core policies by which consular, social affairs-related ministries and ad-hoc diaspora institutions address risks in those areas. To highlight the variation in countries' engagement with their diaspora in the field of welfare, this volume insists particularly on policies that go beyond the EU framework of social security coordination as established by Regulations No. 883/2004 and 987/2009.<sup>2</sup> Overall, the objective of this introduction and the 27 country chapters<sup>3</sup> included in this volume is to reconsider the meaning of sending states' policies for nationals abroad and provide an alternative typology of their engagement by taking into account the array of policies and institutions through which they deal with social protection issues faced by their diaspora.

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<sup>1</sup>Full text available here: [http://legal.un.org/ilc/texts/instruments/english/conventions/9\\_2\\_1963.pdf](http://legal.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf). Accessed 16 March 2020.

<sup>2</sup>Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32004R0883>. Accessed 16 March 2020.

Regulation (EC) No. 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No. 883/2004 on the coordination of social security systems, <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32009R0987>. Accessed 16 March 2020.

<sup>3</sup>For an analysis of the UK diaspora's access to social protection, see Lafleur and Vintila (2020b) in this series.

## 1.2 Conceptual Framework: Bridging the Gap Between Consular Assistance, Diaspora Policies and the External Dimension of Social Security in the EU

### 1.2.1 *Whom to Protect? Diaspora and Citizenship in the EU*

Looking at the success of the concept of diaspora in the study of the relation that migrants maintains with their homeland, some scholars have noted that this notion is regularly described as over-used and under-theorized (Anthias 1998). Following a period of heavy proliferation of the term, scholars such as Dufoix (2008) or Brubaker (2017) have stressed the confusion around the concept. Brubaker (2017) however, argued that it matters less to clearly identify what constitute a legitimate use of the concept than to acknowledge the existence of narrower and broader ways of using this notion. Such variations rely on the meaning given to its three core constitutive characteristics: dispersion, orientation towards the homeland, and relations with the host society. The country chapters included in this volume demonstrate that states define their diaspora very differently and this definition naturally influences the type of policies they adopt. For instance, the chapter on France shows how the French government has developed specific social programmes for nationals residing abroad in situation of need and/or unable to join destination countries' social protection schemes. The extension of state-sponsored solidarity towards non-residents is therefore justified as a privilege associated to citizenship. On the contrary, several Central and Eastern European countries such as Hungary or Slovakia (see country chapters in this volume) also developed policies for individuals considered as part of their diaspora based on ethnic or cultural criteria. However, in the case of dual nationals or individuals who gave up their nationality while acquiring the citizenship of another country, the incentive for the homeland to engage in welfare may be more limited, as these individuals can access their residence countries' social protection system. In this scenario, homeland authorities may consider cultural or return policies— more than social policies— as critical instruments to maintain or strengthen links with co-ethnics residing abroad.

The perimeter of EU Member States' diaspora engagement strategies is further blurred by three additional elements. First, because of the different historical, political, and socio-economic contexts in which emigration from EU countries has taken place, this phenomenon is not equally salient across all Member States. Variations in the demographic weight of the diaspora – often derived from the different timing of migration outflows- still exist, thus representing an important contextual element for examining states' engagement with this population. As shown in Fig. 1.1, the relative size of the diaspora over the total population of each EU Member State varies greatly, from less than 3% in Spain or France to 15% or more for Latvia, Romania, Lithuania, Ireland, Cyprus, Croatia or Malta. Of course, timing of emigration is a particularly relevant aspect here. Countries with longer history of emigration (e.g. Italy, Ireland, Spain, Greece, Finland) naturally have had more time to respond to these significant outflows by implementing policies for citizens abroad

compared to newer emigration countries (especially Member States from Central and Eastern Europe).

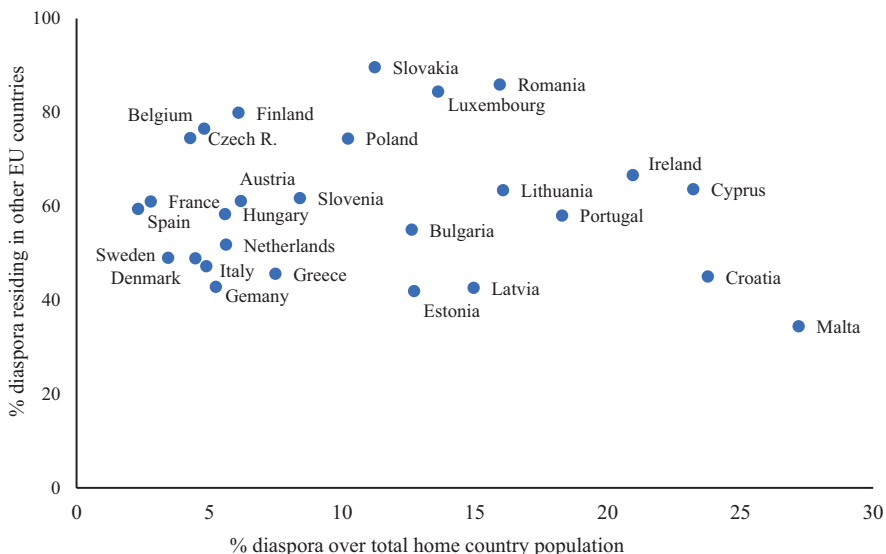
Second, EU Member States have to deal with different categories of nationals residing abroad who potentially have different social protection needs, depending on their countries of residence. On the one hand, there are those residing in other EU Member States. This first group benefits from the EU citizenship status and associated rights, including the right to free movement and residence in the EU, as well as the EU legislation on equal treatment and social security coordination. As shown in Fig. 1.1, more than 75% of the diaspora population of Belgium, Finland, Luxembourg, Romania, and Slovakia are intra-EU migrants. These countries may thus have fewer incentives to develop diaspora and consular policies in the area of welfare since the vast majority of their non-resident nationals are, in any case, covered by the EU legislation. Yet, as noted by Ragazzi (2014), existing diaspora studies tend to neglect regional integration as a form of state engagement with citizens abroad. This entails that our current understanding of who is a “protective” state for its diaspora and who is not does not take the reality of EU integration into consideration.

Figure 1.1 also points towards a second cluster of EU Member States (including Malta, Estonia, Latvia, Germany, Croatia, Greece, Italy, Denmark, and Sweden) for which more than a half of their diaspora resides in non-EU destinations. These states’ engagement with non-resident nationals in the area of welfare is often limited to basic consular services (themselves regulated by the 1963 Vienna Convention), a right to be helped by consular authorities of other EU countries (deriving from the Directive on consular protection for EU citizens living or travelling outside the EU<sup>4</sup>) and social security agreements signed with third countries. Less frequently, EU citizens residing in non-EU countries can benefit from ad-hoc social protection policies designed for the diaspora and/or maintain some access to homeland welfare benefits (see the discussion on substantive infrastructure below).

Third, beyond the distinction between EU and non-EU destination countries, diaspora populations tend to concentrate in a handful of countries of residence. Table 1.1 displays the top five destination countries of each EU Member State’s diaspora. Interestingly, more than a half of the Irish, Finnish or Slovak diaspora is concentrated in a single country. Less surprisingly, some large Western democracies such as the United States of America (USA) or Canada have become important destinations for the diaspora population of several EU countries, whereas Germany and the United Kingdom (UK) rank as top host countries for more than 60% of the non-resident population of other EU Member States. Concentration of the diaspora, we argue, is an important element that could shape states’ policies towards their nationals abroad. More specifically, concentration and mobilization of the diaspora in one host country in particular may push homeland authorities to adopt tailored-made policies that apply only to citizens residing in that country (as opposed to

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<sup>4</sup>Full text available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015L0637>. Accessed 16 March 2020.



**Fig. 1.1** Diaspora populations of EU Member States: share of diaspora over total population and percentage of diaspora residing in the EU from the total diaspora population

Source: Own elaboration based on OECD data. The data on diaspora stocks are from OECD (2015) “Connecting with emigrants: a global profile of diasporas 2015”, covering emigrant population (defined as foreign-born individuals by country of birth and their children born in destination countries) aged 15+ across 84 selected destinations (33 OECD countries and 51 non-OECD states). For Malta and Cyprus, diaspora stocks are from the DIOC-E 2010/2011 Labour Force Status dataset, covering emigrant population aged 15+ across 87 destinations (35 OECD countries and 52 non-OECD states). The data on total population are from the OECD Historical Data file (population 15+, reference year 2010, [https://stats.oecd.org/Index.aspx?DataSetCode=POP\\_PROJ#](https://stats.oecd.org/Index.aspx?DataSetCode=POP_PROJ#), accessed 16 March 2020). The data on diaspora populations residing in EU countries are from the DIOC-E 2010/2011 Labour Force Status (thus including the UK as an EU destination country). However, this source does not always provide information on the diaspora population of each Member State residing in other EU countries. This information is missing for the following groups: Austrian and Slovakian diaspora residing in Bulgaria, Lithuania, and Romania; Belgian and Irish diaspora in Austria, Bulgaria, Germany, and Lithuania; Croatian diaspora in Cyprus, Lithuania, Malta, and Romania; Czech diaspora in Malta and Romania; Cypriot diaspora in Austria, Germany, Lithuania, and Romania; Danish and Latvian diaspora in Austria, Bulgaria, Germany, and Romania; Estonian diaspora in Austria, Germany, Malta, and Romania; Finnish and Swedish diaspora in Austria, Bulgaria, Germany, Lithuania, and Romania; French and Spanish diaspora in Austria and Lithuania; Greek diaspora in Austria and Malta; Italian diaspora in Bulgaria and Lithuania; Lithuanian diaspora in Austria, Bulgaria, Romania, and Malta; Luxembourgish diaspora in Austria, Bulgaria, Cyprus, Germany, Latvia, Lithuania, Romania, and Malta; Maltese diaspora in Austria, Bulgaria, Estonia, Germany, Lithuania, and Romania; Dutch diaspora in Austria, Bulgaria, and Lithuania; Portuguese diaspora in Austria, Bulgaria, Lithuania, and Romania; Slovenian diaspora in Bulgaria, Germany, Lithuania, and Malta

**Table 1.1** Main destination countries of the diaspora populations of EU Member States, by share of diaspora in each host country from the total diaspora of each Member State

<p><u>AUSTRIA</u></p> <ul style="list-style-type: none"> <li>Germany (42%)</li> <li>USA (13%)</li> <li>Switzerland (10%)</li> <li>UK (4%)</li> <li>Canada (4%)</li> </ul>	<p><u>BELGIUM</u></p> <ul style="list-style-type: none"> <li>France (30%)</li> <li>Italy (10%)</li> <li>Netherlands (10%)</li> <li>USA (9%)</li> <li>Spain (8%)</li> </ul>	<p><u>BULGARIA</u></p> <ul style="list-style-type: none"> <li>Turkey (32%)</li> <li>Spain (14%)</li> <li>Greece (9%)</li> <li>Germany (8%)</li> <li>USA (7%)</li> </ul>	<p><u>CROATIA</u></p> <ul style="list-style-type: none"> <li>Serbia (33%)</li> <li>Germany (26%)</li> <li>Italy (7%)</li> <li>Australia (6%)</li> <li>Slovenia (6%)</li> </ul>
<p><u>CYPRUS</u></p> <ul style="list-style-type: none"> <li>UK (48%)</li> <li>USA (19%)</li> <li>Greece (13%)</li> <li>Australia (11%)</li> <li>Turkey (3%)</li> </ul>	<p><u>CZECH REPUBLIC</u></p> <ul style="list-style-type: none"> <li>Germany (29%)</li> <li>Slovakia (22%)</li> <li>UK (9%)</li> <li>USA (7%)</li> <li>Austria (6%)</li> </ul>	<p><u>DENMARK</u></p> <ul style="list-style-type: none"> <li>Sweden (21%)</li> <li>USA (15%)</li> <li>Norway (11%)</li> <li>UK (10%)</li> <li>Germany (9%)</li> </ul>	<p><u>ESTONIA</u></p> <ul style="list-style-type: none"> <li>Russia (39%)</li> <li>Finland (15%)</li> <li>USA (7%)</li> <li>Germany (6%)</li> <li>Sweden (6%)</li> </ul>
<p><u>FINLAND</u></p> <ul style="list-style-type: none"> <li>Sweden (61%)</li> <li>USA (7%)</li> <li>Germany (5%)</li> <li>UK (4%)</li> <li>Canada (4%)</li> </ul>	<p><u>FRANCE</u></p> <ul style="list-style-type: none"> <li>USA (13%)</li> <li>Spain (13%)</li> <li>Belgium (11%)</li> <li>UK (8%)</li> <li>Italy (8%)</li> </ul>	<p><u>GERMANY</u></p> <ul style="list-style-type: none"> <li>USA (30%)</li> <li>UK (7%)</li> <li>Switzerland (7%)</li> <li>France (6%)</li> <li>Italy (5%)</li> </ul>	<p><u>GREECE</u></p> <ul style="list-style-type: none"> <li>Germany (31%)</li> <li>USA (21%)</li> <li>Australia (14%)</li> <li>Canada (9%)</li> <li>UK (5%)</li> </ul>
<p><u>HUNGARY</u></p> <ul style="list-style-type: none"> <li>Germany (25%)</li> <li>USA (17%)</li> <li>UK (10%)</li> <li>Canada (8%)</li> <li>Austria (6%)</li> </ul>	<p><u>IRELAND</u></p> <ul style="list-style-type: none"> <li>UK (61%)</li> <li>USA (18%)</li> <li>Australia (9%)</li> <li>Canada (4%)</li> <li>Spain (2%)</li> </ul>	<p><u>ITALY</u></p> <ul style="list-style-type: none"> <li>USA (18%)</li> <li>Germany (17%)</li> <li>France (14%)</li> <li>Canada (10%)</li> <li>Switzerland (8%)</li> </ul>	<p><u>LATVIA</u></p> <ul style="list-style-type: none"> <li>Russia (32%)</li> <li>UK (20%)</li> <li>USA (9%)</li> <li>Ireland (6%)</li> <li>Germany (6%)</li> </ul>
<p><u>LITHUANIA</u></p> <ul style="list-style-type: none"> <li>UK (23%)</li> <li>Russia (16%)</li> <li>Poland (13%)</li> <li>USA (9%)</li> <li>Germany (7%)</li> </ul>	<p><u>LUXEMBOURG</u></p> <ul style="list-style-type: none"> <li>Germany (30%)</li> <li>France (17%)</li> <li>Belgium (16%)</li> <li>USA (10%)</li> <li>Italy (8%)</li> </ul>	<p><u>MALTA</u></p> <ul style="list-style-type: none"> <li>Australia (43%)</li> <li>UK (30%)</li> <li>USA (14%)</li> <li>Canada (8%)</li> <li>Italy (2%)</li> </ul>	<p><u>THE NETHERLANDS</u></p> <ul style="list-style-type: none"> <li>Germany (18%)</li> <li>Belgium (14%)</li> <li>Canada (13%)</li> <li>USA (12%)</li> <li>Australia (10%)</li> </ul>
<p><u>POLAND</u></p> <ul style="list-style-type: none"> <li>Germany (38%)</li> <li>UK (17%)</li> <li>USA (14%)</li> <li>Canada (5%)</li> <li>Ireland (3%)</li> </ul>	<p><u>PORTUGAL</u></p> <ul style="list-style-type: none"> <li>France (36%)</li> <li>USA (12%)</li> <li>Switzerland (9%)</li> <li>Canada (8%)</li> <li>Brazil (8%)</li> </ul>	<p><u>ROMANIA</u></p> <ul style="list-style-type: none"> <li>Italy (26%)</li> <li>Spain (23%)</li> <li>Germany (17%)</li> <li>Hungary (6%)</li> <li>USA (6%)</li> </ul>	<p><u>SLOVAKIA</u></p> <ul style="list-style-type: none"> <li>Czech R. (55%)</li> <li>UK (11%)</li> <li>Germany (6%)</li> <li>Hungary (6%)</li> <li>Austria (5%)</li> </ul>
<p><u>SLOVENIA</u></p> <ul style="list-style-type: none"> <li>Germany (22%)</li> <li>Italy (17%)</li> <li>Croatia (13%)</li> <li>Austria (10%)</li> <li>USA (9%)</li> </ul>	<p><u>SPAIN</u></p> <ul style="list-style-type: none"> <li>France (31%)</li> <li>USA (13%)</li> <li>Germany (9%)</li> <li>Argentina (9%)</li> <li>UK (8%)</li> </ul>	<p><u>SWEDEN</u></p> <ul style="list-style-type: none"> <li>USA (18%)</li> <li>Norway (16%)</li> <li>Finland (11%)</li> <li>UK (10%)</li> <li>Denmark (7%)</li> </ul>	

Source: Own elaboration based on OECD (2015) "Connecting with emigrants: a global profile of diasporas 2015". The data refers to emigrant populations (defined as foreign-born individuals by country of birth and their children born in destination countries) aged 15+ across 84 selected destinations (33 OECD countries and 51 non-OECD states). For Malta and Cyprus, diaspora stocks are from the DIOC-E 2010/2011 Labour Force Status dataset, covering emigrant populations aged 15+ across 87 destinations (35 OECD countries and 52 non-OECD states)



developing policies for all non-resident nationals, regardless of their destination countries). Chapters included in this volume therefore take the precaution of specifying the geographical scope of policies when they are restricted to certain destination countries.

### ***1.2.2 How to Protect? Consular and Diaspora Policies for EU Citizens***

In the previous section we have called for a broadening of the definition of states' engagement with nationals abroad, to take into account different types of sending states' social protection interventions. In prior attempts to measure states' commitment with populations abroad, scholars have coined new concepts that move partially or fully away from an exclusive focus on diaspora policies. Unterreiner and Weinar (2017: 11), for instance, distinguish immigration policies from emigration policies, which they define as "*all policies that regulate (either facilitate or limit) outward migration, mobility across countries and possible return*". Although this categorization is conceptually attractive, it however neglects that certain policies (such as bilateral social security agreements) are often both emigration policies through which sending states facilitate physical relocation (e.g. by allowing pension contributions in home countries to be recognized in host countries) and immigration policies through which receiving states aim to facilitate integration by limiting individuals' exposure to social risks. Clear-cut distinctions are thus not obvious.

In line with the literature that focuses on intentionality, Unterreiner and Weinar (2017) further distinguish diaspora policies as "*policies that engage emigrants and members of diaspora communities (both organised groups and individuals) with the countries of origin, building a sense of belonging and strengthening ties*". Their definition of diaspora policies is therefore close to what Pedroza et al. (2016: 14) understand as emigrant policies, that is "*policies that states develop specifically to establish a new relationship towards, or keep links with, their emigrants*". For Pedroza and colleagues, emigrant policies therefore exclude the hard-to-distinguish host states' immigration policies, home states' policies enabling departure and, most importantly, most consular tasks as defined by the Vienna Convention on Consular Relations.

Surprisingly, with the exception of the work of Delano (2013, 2018), the role of consulates in assisting emigrants to deal with risks abroad has not received significant scholarly attention. So far, the literature has assumed that, while important cross-country variations in the presence of consulates exist, services are broadly similar and limited to: strengthening commercial, economic, cultural, and scientific relations between home and host countries; issuing passports and travel documents; serving as a notary and civil registry; and assisting detained nationals abroad (Aceves 1998). These missions derive from article 5(e) of the Vienna Convention that vaguely defines consular functions as "*helping and assisting nationals, both*

*individuals and bodies corporate, of the sending State*". For Okano-Heijmans (2010), the concept of 'consular affairs' is commonly used to refer to assistance to non-resident citizens in distress, but states tend to leave these concepts open to interpretation which, *de facto*, leaves significant discretionary power to consulates in dealing with citizens abroad. The lack of conceptual clarity in the definition of consular services and the fact that the delivery of certain services is sometimes left at the discretion of authorities renders the comparison between EU Member States difficult. Accordingly, when examining consular policies (along with other diaspora policies), this volume focuses primarily on policies based on norms adopted by legislative and/or executive-level homeland authorities; and discretionary measures and administrative practices are only mentioned for illustrative purposes.

In the case of EU countries, significant attention has also been paid to consular functions exercised by any EU Member State for EU citizens living in third countries in which their state of nationality is not represented. Council Directive 2015/637 stipulates that consular assistance is limited to cases of: death, serious accidents or serious illness, arrest or detention, being a victim of crime, relief and repatriation in case of emergency, and the need for emergency travel documents (see Faro and Moraru (2010) for an in-depth discussion of consular practices of EU countries). However, the emphasis on this specific policy - presented as a response to the needs of EU citizens residing in third countries- is limitative in two ways. First, it overlooks the fact that consulates may play a critical role in their nationals' access to social protection even within the EU. As discussed by Palop-García (this volume) or Nica and Moraru (this volume), the presence of Romanian and Spanish social affairs *attachés* in different consulates throughout the EU is a testimony of the relevance of such consular actors whose presence and activities aim to reduce practical inequalities in access to welfare. Second, consular services of many Member States are moving away from a model based on physical presence in destination countries to a more diverse offer that also includes e-services and mobile consular services (i.e. temporary detachment of consular personnel) in cities where no consulate is present. Overall, this brief discussion on consular services in the EU highlights the necessity for our 27 country chapters to provide a deeper analysis of the physical availability (and variations in content) of consular services for EU citizens in situation of international mobility, whether they live inside or outside the EU.

### ***1.2.3 What Kind of Protection? Deterritorialized Social Security as Protection Policy for EU Citizens Residing Abroad***

Facing difficulties in accessing benefits in the host country and losing entitlements gained previously in their home country are frequent issues met by international migrants. State cooperation in the area of welfare can address these problems, although this cooperation is often hindered by varying conditions of access to

benefits across states and their different funding schemes. Even within the EU, specific benefits can be contribution-based in one Member State and simply not exist or be tax-financed with severe means testing in another (see Laffleur and Vintila 2020a in this series). When it comes to accessing public healthcare or contributory pensions, for instance, mobile EU citizens benefit from the most advanced regime of state cooperation to deal with the social risks of individuals in situation of international mobility (Holzmann et al. 2005; Avato et al. 2010). This privileged position when compared to other international migrants is further reinforced by the legal framework on non-discrimination, equal treatment, and the right to reside applicable across the EU. In other words, in the process of encouraging labour mobility to achieve the Single Market (Maas 2013), EU Member States have contributed to the deterritorialization of their social protection systems. As a result, residence outside the territory of a specific welfare state stopped being an obstacle to maintain some form of access to social benefits from that state. Portability and exportability of welfare entitlements are thus key features of this deterritorialization process.

Portability is one's ability to preserve, maintain and transfer acquired social security rights in areas such as pensions or healthcare, independently of one's nationality or residence country (Holzmann et al. 2005). Welfare authorities of migrants' sending and receiving states typically tend to agree on portability of pension entitlements to ensure that individuals with a history of international mobility who have paid contributions in different countries are not deprived from accessing pensions. For EU citizens overseas who do not benefit from the EU legal framework on pensions,<sup>5</sup> a number of international treaties and conventions from institutions such as the International Labour Organisation or the United Nations<sup>6</sup> are designed to set minimum standards and encourage— with little binding force— good global practices. Nonetheless, because of the lack of coordination in the external dimension of EU social security,<sup>7</sup> portability rights of EU citizens living outside the EU still depend on Member States' ability to enter social security agreements with third countries. In this volume, country chapters explicitly discuss such agreements and show that almost all Member States have signed bilateral or multilateral social security agreements with the third countries that represent the main destinations for their diaspora.

Exportability refers to individuals' ability to receive a particular benefit to which they are entitled while residing outside of the territory of the welfare state that pays

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<sup>5</sup>For conditions of retiring abroad within the EU, see Regulation (EC) No. 883/2004, Regulation (EC) No. 987/2009 and [https://europa.eu/youreurope/citizens/work/retire-abroad/index\\_en.htm](https://europa.eu/youreurope/citizens/work/retire-abroad/index_en.htm). Accessed 16 March 2020.

<sup>6</sup>See: International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>. Accessed 16 March 2020.

<sup>7</sup>See also COM (2012) 153 final- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions- The External Dimension of EU Social Security Coordination, available here: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52012DC0153>. Accessed 16 March 2020.

for it. Here again, pensions are, by far, the most commonly accepted form of exportable benefit (Holzmann et al. 2005; Vintila and Lafleur 2020). Country chapters in this volume also show that bilateral agreements between EU Member States and third countries tend to include pension exportability. However, only contributory pensions tend to be exportable, as non-contributory pensions are frequently reserved for residents. Similarly, some Member States may reduce the amount of pensions when beneficiaries reside in specific third countries (Pennings 2020).

Regulation 883/2004 on social security coordination provides further illustrations of the fact that mobile EU citizens residing in other Member States have access to a more favourable exportability regime when compared to EU nationals residing in third countries. For instance, the Regulation allows EU citizens moving to another Member State for the purposes of finding a job to export unemployment benefits for three months (up to a maximum of six months).<sup>8</sup> It also explicitly envisages the exportability of family benefits when the country where the parent works and the country where the child resides are not the same.<sup>9</sup> For EU citizens moving outside the EU, on the contrary, the assumption is that their access to family benefits will be determined by the host country's regulations and, when applicable, bilateral/multi-lateral agreements. Additionally, the European Health Insurance Card (EHIC) also allows EU nationals to access state-provided medical healthcare during temporary stays in other EU Member States, Iceland, Liechtenstein, Norway and Switzerland, under the same conditions and at the same costs as individuals insured in those countries.<sup>10</sup> Beyond these examples, only few benefits are exportable; and in general, non-contributory benefits are typically designed to respond to the needs of residents (Vintila and Lafleur 2020). Yet, in the next section, we highlight the fact that several Member States have adopted specific responses to the social protection needs of their diaspora.

### 1.3 Diaspora Infrastructure

In this section, we use the concept of diaspora infrastructure to compare EU sending states' diaspora institutions and policies that address the social protection needs of their non-resident nationals. As discussed, existing conceptualizations of sending states' policies do not capture adequately the specificities of EU Member States, while also overlooking origin countries' policies in the area of welfare. Past studies usually distinguished between two types of diaspora institutions (Agunias and

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<sup>8</sup>Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009. See also: [https://europa.eu/youreurope/citizens/work/unemployment-and-benefits/unemployment/index\\_en.htm](https://europa.eu/youreurope/citizens/work/unemployment-and-benefits/unemployment/index_en.htm). Accessed 16 March 2020.

<sup>9</sup>For coordination of family benefits, see Regulation (EC) No 883/2004, Regulation (EC) No 987/2009 and [https://europa.eu/youreurope/citizens/work/unemployment-and-benefits/family-benefits/index\\_en.htm](https://europa.eu/youreurope/citizens/work/unemployment-and-benefits/family-benefits/index_en.htm). Accessed 16 March 2020.

<sup>10</sup>See: <https://ec.europa.eu/social/main.jsp?catId=559&langId=en>. Accessed 16 March 2020.

Newland 2012; Gamlen 2019). First, there are government-led bodies such as ministries, sub-ministries or agencies functioning as administrations which respond to the specific needs of populations abroad or maintain a connection (of economic, cultural or political nature) with non-residents. Second, other bodies function as consultative or representative institutions of the diaspora and often include members from the diaspora via election or appointment. Their function is generally to defend diaspora's interests in the home country's policy-making process. Sending states' institutions that enable citizens abroad to access host or home countries' welfare benefits have therefore often been overlooked in the literature.

The concept of infrastructure has experienced a growing use in migration studies with the literature on "arrival infrastructure" studying the interaction between the local environment and immigrant integration (Meeus et al. 2019). Anthropologists such as Kleinman (2014) also refer to infrastructure to describe both the physical environment and the web of social interactions that allow precarious migrants to get by. With the concept of diaspora infrastructure, we aim to highlight the fact that sending states' engagement with nationals abroad in the area of welfare consists of both institutions (consulates, ministries or sub-ministries in charge of emigration issues) and policies (rights and support services) aiming to protect the diaspora against vulnerability or social risks.

Confronted with the diversity of home country institutions and policies relevant for citizens abroad, we have chosen to articulate the notion of diaspora infrastructure based on two different (but sometimes interconnected) conceptual dimensions. Inspired by the literature on political representation of minorities (see Pitkin 1967; Phillips 1995; Powell 2004; Bird et al. 2011, among others<sup>11</sup>), we distinguish between descriptive and substantive state infrastructure for nationals abroad. Considering the well-documented trend among sending states to engage only symbolically with their diaspora by creating institutions that perform limited tasks or by adopting policies with limited impact on diaspora's welfare (Gamlen 2019), the distinction between descriptive and substantive infrastructure is particularly appealing to qualitatively assess sending states' engagement. In our view, descriptive infrastructure captures the extent to which sending states create an institutional setting that specifically targets the diaspora in its scope and aims. This concept captures the "presence" of homeland institutions that explicitly acknowledge the diaspora as main reason for their existence, while formally being granted the mission to act in its interests (including welfare-related interests). As discussed below, descriptive infrastructure may include a sending country's consular network, but also ministries, sub-ministries, agencies or representative bodies that perform a public mission in the interest of the diaspora.

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<sup>11</sup>In this body of literature, descriptive political representation traditionally focuses on minority empowerment by postulating that the composition of representative institutions should "mirror" the composition of the population it aims to represent. On the other hand, substantive representation captures the extent to which elected office holders are responsive to the specific interests, needs, demands and preferences of the group they represent.

Substantive infrastructure, on the other hand, refers to the existence of policies in the area of social protection by which sending states provide rights and services that address diaspora's social risks. As we show below, an extensive substantive infrastructure can be measured not only by the diaspora's ability to benefit from some level of coverage from the home country's welfare state, but also by the capacity of sending states' authorities to provide practical support to nationals abroad who are in need. Of course, having an extensive descriptive infrastructure does not necessarily mean that states also adopt extensive policies through which they actively respond to diaspora's social protection needs, as specific diaspora institutions may be created only symbolically while still veiling a rather superficial sending states' responsiveness to the concerns of nationals abroad. Alternatively, states may still be able to ensure a comprehensive substantive infrastructure for non-resident populations even in absence of a widespread institutional network formally working in the interest of the diaspora. Yet, the mere existence of an extensive public structure of institutions can still carry an important symbolic weight, as it may be considered as a formalised recognition of diaspora's importance for the homeland. An extensive descriptive infrastructure is thus expected to be correlated with an extensive substantive infrastructure, although it is not a sufficient, nor a necessary condition, for the latter.

From an empirical viewpoint, our assessment of descriptive and substantive diaspora infrastructure relies on two large-N datasets designed in the framework of the ERC-funded project "Migration and Transnational Social Protection in Post (Crisis) Europe" (MiTSoPro).<sup>12</sup> The diaspora policy dataset was created by collecting a large amount of data on national policies,<sup>13</sup> using a standardized questionnaire filled by experts on consular and diaspora policies across 40 countries (including the EU27 Member States analysed here). In our description of substantive infrastructure, we also use some data on welfare entitlements of citizens abroad from a second MiTSoPro dataset on access to social protection, drawing on a second survey on national social protection policies with social policy experts across the same 40 countries (see Vintila and Lafleur 2020 for further details).

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<sup>12</sup><http://labos.ulg.ac.be/socialprotection/>. Accessed 16 March 2020. The surveys were conducted between April 2018–January 2019 and several rounds of consistency check were centrally conducted by the MiTSoPro team. Given the period in which the surveys were conducted, the country chapters included in this volume focus mainly on the policies in place at the beginning of 2019.

<sup>13</sup>In some countries (Spain, Italy, Germany, Portugal or Belgium), sub-national level authorities also develop policies towards the diaspora. While this research focuses on national-level policies, examples of such sub-national policies are provided for illustrative purposes in the respective country chapters.

### ***1.3.1 Descriptive Infrastructure: Consular, Governmental, and Interest-Representation Institutions***

As previously mentioned, we operationalise sending states' descriptive infrastructure as the institutional framework that comprises home countries' public institutions at the national level which meet both conditions of having a mandate to engage primarily with the diaspora and being active in the adoption or implementation of social protection policies that benefit this population. Institutions that form the descriptive infrastructure can have either direct relations with the diaspora (e.g. when an institution provides the diaspora with a specific service/benefit) or indirect ones (i.e. when it only participates in the design of diaspora policies). Similarly, some of these institutions can be solely present physically in the home country, while others can operate in (all or selected) countries of residence. Regardless of the intensity of their interactions with the diaspora or the main location of their activities, all the institutions that compose a country's descriptive infrastructure however share the characteristic of performing a public mission that contributes to addressing diaspora's social protection needs.

The use of this specific definition of descriptive infrastructure has two important implications for assessing how protective states are towards their non-resident populations. First, by focusing on public institutions with a legal mandate to govern or administrate states' relations with the diaspora, the limited number of EU Member States, such as Ireland, that usually fund non-state actors (e.g. migrant associations) to perform missions of assistance to the diaspora may appear as less engaged. Similarly, because we focus on national institutions, the limited number of sub-national institutions that exist in some EU countries are also excluded from our measurement of descriptive infrastructure. However, when relevant, both regional actors and state-funded non-state actors are discussed in the country chapters for illustrative purposes.

Drawing on this definition and the information provided by the country chapters in this volume, Fig. 1.2 shows a comparative overview of the descriptive infrastructure that EU countries put forward for their diaspora. The Figure captures three types of institutions that are analysed below: a) consulates; b) governmental institutions (covering ministry and sub-ministry level institutions for non-residents) and; c) interest-representation institutions (either at the legislative or consultative level). As observed, there is substantial variation across EU countries in the repertoire of institutions they create to engage with the diaspora. Some Member States (especially Romania, Italy, Portugal, Croatia, France, Greece, and Spain) show a higher variety of institutions dealing with non-residents when compared to other countries (particularly Estonia, Finland, Luxembourg or Sweden), which return a very limited descriptive infrastructure for nationals abroad.

#### **Consular Network**

As noted previously, consulates perform different missions for citizens abroad that are relevant for their access to welfare. These missions range from the delivery of



**Fig. 1.2** Descriptive infrastructure: presence of diaspora-related public institutions of EU Member States

Source: Own elaboration based on MiTSopro data. Consular presence is considered as extensive (green) when a country has 20+ consulates in top five destination countries; moderate (yellow)



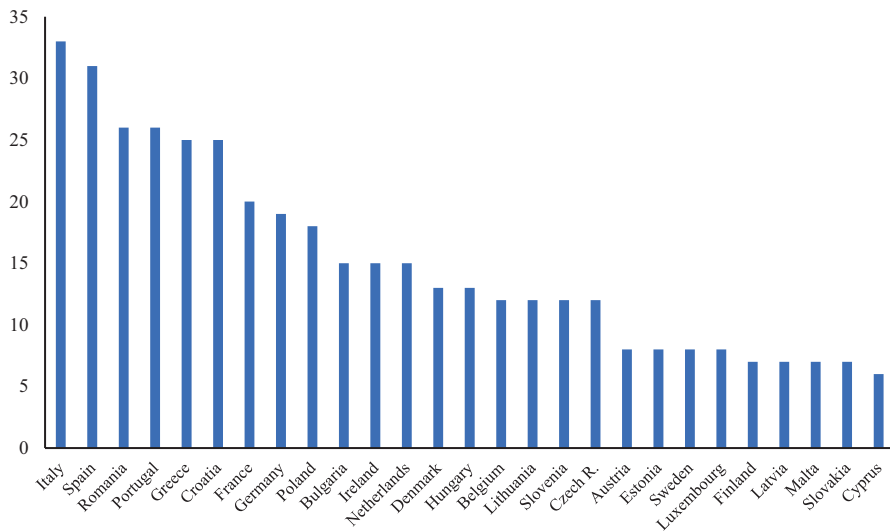
indispensable documents to access certain benefits (e.g. life certificate to continue receiving a home country pension while abroad), direct provision of benefits (e.g. consular financial assistance in case of exceptional hardship), information provision on home and host countries' welfare systems (e.g. on their website, via brochures or information sessions) and, more exceptionally, assistance to access benefits (see below). The country chapters included in this volume provide details that point towards an important variation between EU Member States in the type of services they offer. Some also discuss how certain EU countries have engaged in the deterritorialization of their consular services by offering mobile consular services (i.e. physical movement of consular staff to locations where no consulate is present) or by allowing some consular services to be delivered electronically without the need for citizens to move.

Figure 1.3 identifies the “physical presence” of consulates in destination countries, defined as the total number of consulates that each EU Member State has in the top five residence countries of their diaspora. Although some honorary consulates also offer limited administrative services to citizens abroad, we excluded them from the analysis, thus focusing exclusively on consulates offering the widest range of consular services in each Member State's consular law.<sup>14</sup> This approach of focusing on the five largest destination countries of EU Member States' diaspora populations is in line with our concept of “descriptive infrastructure” whose core idea is that the presence of homeland institutions should be reflective of the presence of citizens abroad. Of course, this approach also faces certain limitations. For instance, there may be reasons to open a consulate— such as the desire to increase trade, cultural or political relations with a particular country— that are not necessarily related to the presence of the diaspora. Also, when a large share of the diaspora in a particular destination country already holds that country's nationality or shows high levels of socio-economic integration, the incentive of sending states to open/maintain consulates in that specific destination country may be weaker. Lastly, the geographic size of destination countries and diaspora's concentration in the territory of those receiving states can further influence the presence of home country consulates.



**Fig. 1.2** (continued) when the number of consulates is between 10 and 19; and limited (red) when the number of consulates is lower than 10. Regarding the network of governmental institutions for the diaspora, we consider it as extensive (green) for countries with at least a ministry for the diaspora; moderate (yellow) for countries with only sub-ministerial institutions; and absent (red) for countries that have neither type of institutions. Interest-representation institutions are measured as extensive (green) when a country has at least reserved seats in the national Parliament for diaspora representatives; moderate (yellow) when it has only consultative institutions for nationals abroad; and none (red) when neither of these interest-representation institutions exist

<sup>14</sup>Honorary consulates frequently perform a symbolic role in representing a state's interests abroad and are often run by non-professional diplomats. In certain cases, they also offer limited administrative services to citizens abroad. It should also be noted that, in certain countries, what we refer here with the generic term of honorary consulate is called differently (e.g. royal consulates in Denmark).



**Fig. 1.3** Consular presence of EU Member States in top five destination countries (total number)  
Source: Own elaboration based on MiTSoPro data

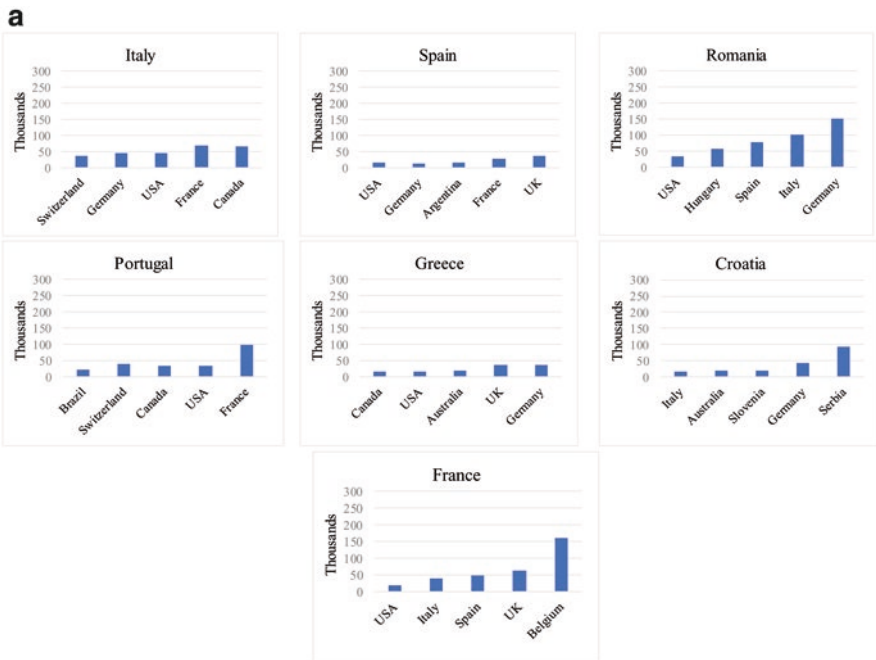
Bearing in mind these limitations, Fig. 1.3 (and the part on consulates in Fig. 1.2) allow us to distinguish three clusters of EU Member States according to their consular presence. First, a group of seven Member States have at least 20 consulates in total in the top-five destination countries of their diaspora and can therefore be considered as returning an extensive consular presence. This group includes five countries from South and South East Europe with a long tradition of large scale emigration (Spain, Italy, Portugal, Greece, and Croatia), Romania (which started to experience substantial migration outflows especially since the 2000s), and one large former colonial power which has one of the most sizeable diaspora populations in absolute terms (France). A second cluster includes 11 North Western and Central and Eastern European countries that return a moderate consular network (between 10 and 19 consulates in top destination countries). The third cluster comprises nine Member States with more limited consular presence (less than 10 consulates in top destination countries). This group concentrates smaller EU countries (less than eight million inhabitants).

Overall, while this classification gives us an indication of sending states' willingness to be physically present where their diaspora concentrates, it does not tell us whether such presence is adequate considering the size of the diaspora in those countries. In Fig. 1.4, we propose an estimation of the adequacy of such consular presence by highlighting how many potential individuals the consular network of each EU Member State has to serve in the top five destination countries. For clarity purposes, the data is presented according to our typology of consular presence (extensive, moderate, limited, as explained above).

Two important patterns emerge. First, among the states with moderate or extensive consular networks, a group of four Member States (Romania, France, Germany, and Poland) have to serve potentially much more citizens per consulate than other countries in these clusters, this questioning their ability to face a particularly high demand of services. Second, among states returning a limited consular presence, we unsurprisingly find a majority of countries with limited diaspora presence in top five destinations, which somewhat justifies the rather small number of consulates they set up. Yet, we also find two Member States (Slovakia and Finland) whose nationals abroad concentrate mostly in one destination country, hence the demand of consular services in these specific states is much higher.

**Governmental Institutions**

The second category of institutions that are part of EU Member States' descriptive infrastructure are governmental institutions for the diaspora. In line with the definition of Agunias and Newland (2012), these are homeland public institutions at the ministerial and sub-ministerial level whose legal mandate primarily consists in engaging with the diaspora and which design or implement policies aiming to



**Fig. 1.4** Ratio emigrants/consulates in top destination countries of EU Member States. (a) Member States with extensive consular network (20+ consulates in top destination countries). (b) Member States with moderate consular network (10–19 consulates in top destination countries). (c) Member States with limited consular network (less than 10 consulates in top destination countries)

Source: Own elaboration based on MiTSoPro data. There is no consular representation of Cyprus in Turkey, hence this case appears with value “0”

**b**

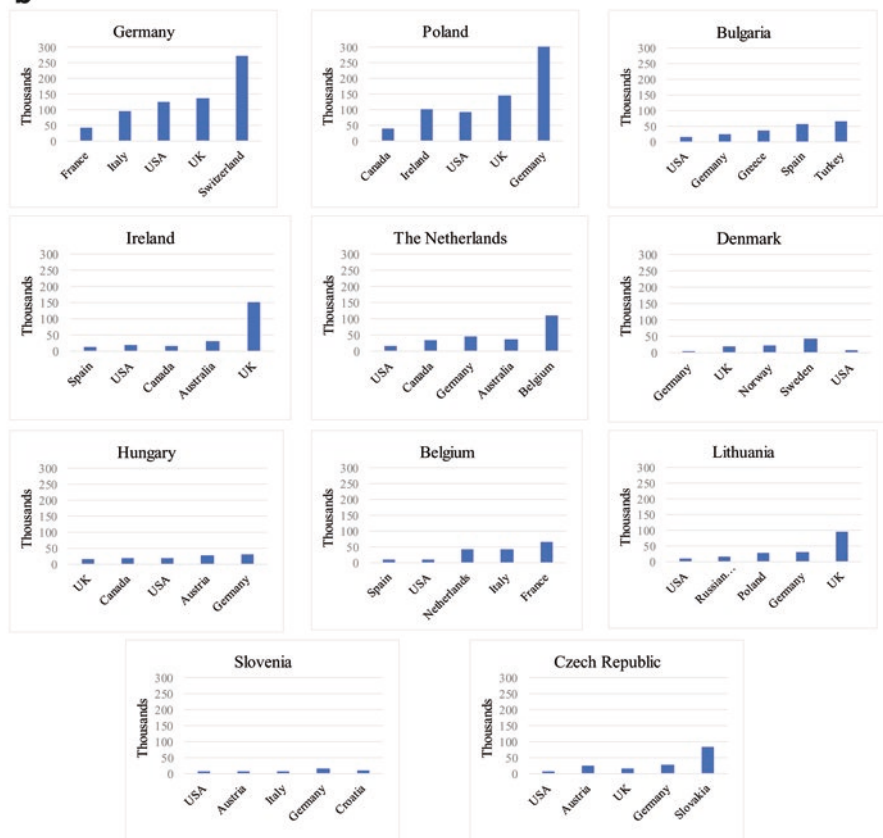


Fig. 1.4 (continued)

respond to the perceived social protection needs of nationals abroad. To distinguish between ministry and sub-ministry level institutions, we rely on their criteria of “hierarchical independence” according to which only ministry-level institutions have stable financial means and can manage the diaspora portfolio in all its dimensions (Agunias and Newland 2012). Sub-ministry level institutions, in turn, are executive-level agencies or departments hierarchically dependent on ministries (typically, the Ministry of Foreign Affairs or the Ministry of Labour), but whose missions go beyond basic consular services set by the Vienna Convention.<sup>15</sup> However, differences in the level of autonomy enjoyed by these institutions are not always reflected in their names. State secretaries, for instance, are autonomous from ministries in some countries, while being directly associated to or dependent on

<sup>15</sup>This criterion allow us to exclude Ministry of Foreign Affairs’ consular affairs departments that are present across all EU Member States.

**C**

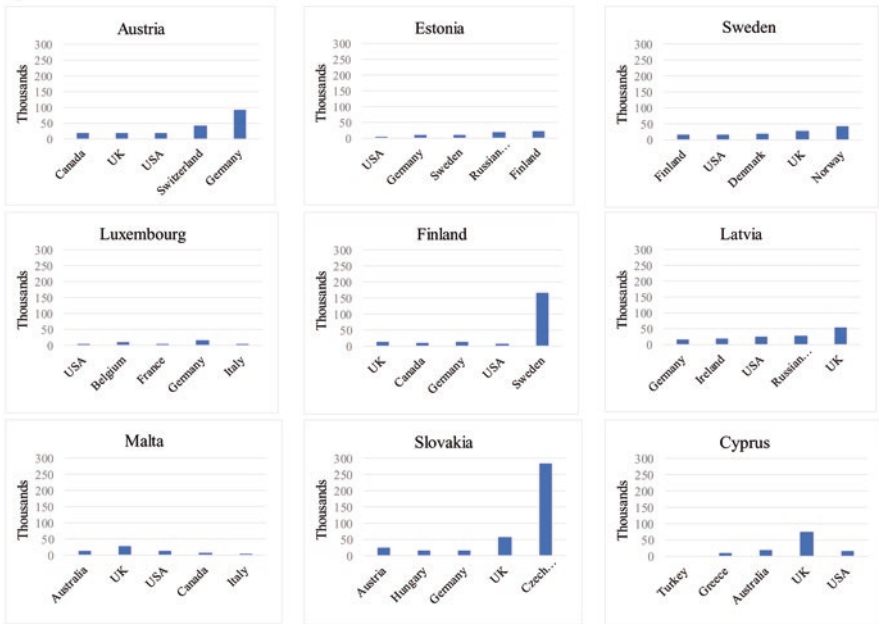


Fig. 1.4 (continued)

certain ministries in others. Hence, institutions with similar names sometimes belong to different categories of governmental institutions.

In Fig. 1.2, we considered Member States that have at least a ministry for the diaspora (which means that they can also have sub-ministerial institutions in addition to the ministry) as returning a strong network of governmental institutions. This choice is also justified by the fact that ministry-level institutions are undoubtedly an indication of the greater visibility that some EU countries wish to grant to the diaspora population. Following this approach, states that have only sub-ministry level institutions are considered as having a moderate offer, while those who have neither type as having no network of governmental institutions for nationals abroad.

Our comparative analysis reveals that, at the time of data collection (2019), Romania- which also represent one of the EU countries with the fastest growing emigrant population in recent years- was the only Member State with a ministerial body in charge of engaging with the diaspora. As explained by Nica and Moraru ([this volume](#)), the Ministry for Romanians Abroad was recently institutionalised (ten years after the country joined the EU), thus further extending the institutional network that the Romanian government has started to design for its diaspora even before the large emigration wave during mid-late 2000s. However, as noted in different country chapters, such ministries for the diaspora often tend to appear and disappear as new governments take power. This is the case of Italy and France, which had such ministry-level institutions in the past, but no longer do.

Although most Member States have not specifically created ministries aiming to address the needs of nationals abroad, the majority of them do have sub-ministerial institutions to represent diaspora's interests. Such institutions are present across 19 EU Member States (Fig. 1.2), including countries with a long-standing emigration history such as Greece, Ireland, Italy or Spain, but also more recent emigration countries such as Poland or Bulgaria. These sub-ministerial institutions however enjoy varying levels of autonomy. As explained in the country chapters, some Member States have departments tasked with engaging with the diaspora, which are located within the Ministry of Foreign Affairs (e.g. Italy's Directorate General for Italian Citizens Abroad and Migration Policies) and, occasionally, the Social Affairs Ministry (e.g. Spain). Such institutions usually benefit from less autonomy than ad-hoc agencies set up in a number of Member States. Lastly, only three states have sub-ministerial institutions in the form of political positions that grant their holders larger room for manoeuvre to design policies, while being hierarchically dependent on another ministry (see the Special Envoy for Expatriates of the Czech Republic, Ireland's Ministry of State for the Diaspora and Latvia's Ambassador for the Diaspora). Moreover, our findings also show that seven EU countries (Belgium, Denmark, Estonia, Finland, Luxembourg, the Netherlands, and Sweden) still consider that their bureaucratic dealings with the diaspora should be limited to basic consular services. Consequently, these countries have not designed ministerial or sub-ministerial institutions for their nationals abroad.

### **Interest-Representation Institutions**

The third type of homeland institutions considered for our operationalisation of descriptive infrastructure are interest-representation institutions, i.e. home country public institutions with a legal mandate to voice diaspora concerns in the home and/or host country. Many chapters show how frequent it is for EU Member States to have institutions that officially allow representatives of the diaspora to communicate (in a non-binding way) their concerns in the homeland via assemblies, councils or forums. Yet, a handful of Member States also have interest-representation institutions organized at the destination country level, such as the Committees of Italians Abroad organized at the consular level to act as a link between the diaspora and consular authorities. By definition, interest-representation institutions are expected to cover a wide range of issues relevant for the diaspora (e.g. passport delivery, dual citizenship, access to culture, etc.), but they are also likely to include more niche welfare-related interests into the domestic political agenda of the homeland, as long as this is a relevant issue of concern for nationals abroad.

We distinguish between two types of interest-representation institutions. First, legislative-level institutions represent diaspora's interests in the national Parliament (in either or both chambers, when applicable) through members of the Parliament (MPs) elected by voters residing abroad. In Fig. 1.2, we considered that EU Member States offering such legislative representation for the diaspora put forward an extensive infrastructure. As observed, five Member States currently allow their non-resident citizens to elect their own MPs (Croatia, France, Italy, Portugal, and Romania). This presence of elected MPs for the diaspora is an indication of the

electoral visibility that states give to their nationals abroad, but the limited number of seats available for external constituencies also reveals the limited capacity that these constituencies actually have to influence the legislative process (see also Vintila and Soare 2018). Second, interest representation can also take the form of specific representative institutions whose role of defending diaspora's interests is officially acknowledged in public policies adopted by homeland authorities. When compared to parliamentary seats for the diaspora, these representative bodies have far less visibility in homeland politics and policies, although they usually enable a dialogue between diaspora representatives and a multiplicity of homeland actors. For this reason, EU Member States that only have this type of bodies for their nationals abroad are considered to return a moderate type of interest-representation institutions in Fig. 1.2. The members of such bodies are either appointed by homeland authorities or elected by citizens abroad. While they are homeland public institutions, their mission of interest representation may be oriented towards the homeland and/or the countries of residence. Our results indicate that this type of representative bodies are present across 16 EU Member States in total;<sup>16</sup> in 11 of them (see the cases marked in yellow in Fig. 1.2), such bodies constitute the only interest-representation institutions that states make available for non-residents. Our findings also show that, overall, 11 EU Member States do not count with any type of interest-representation institutions for their diaspora. This cluster (marked in red in Fig. 1.2) includes Austria, Belgium, Cyprus, Denmark, Estonia, Finland, Germany, Luxembourg, the Netherlands, Slovakia, and Sweden.

In addition to the consular, governmental and interest-representation institutions already captured under our umbrella concept of descriptive infrastructure, several chapters also mention other institutions that are still relevant for the diaspora populations of EU Member States. However, they have not been included in our definition of descriptive infrastructure as they fail to meet the double condition of having a primary mandate to engage with nationals abroad and participate in the design/implementation of policies aiming to respond to diaspora's social protection needs. Among these institutions, some have prerogatives in the area of welfare, such as the presence of representatives of the Spanish Ministry for Social Affairs in specific consulates abroad. Others- quite common across all EU countries, except for Belgium, Malta, and Slovenia- are cultural institutions aiming to provide services abroad related to cultural, educational, linguistic or religious affairs of the home country (language courses, school networks supported with homeland's funds, or general promotion of cultural activities abroad). Finally, several chapters also discuss the relevance of homeland parties operating abroad with the aim to defend diaspora's interests in origin countries.

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<sup>16</sup>Austria, Bulgaria, Croatia, the Czech Republic, France, Greece, Hungary, Ireland, Italy, Lithuania, Malta, Poland, Portugal, Romania, Slovenia, Spain.

### 1.3.2 *Substantive Infrastructure: Sending States as Providers and Facilitators of Social Protection*

In this section, we question the assumption that the existence of diaspora institutions is a sufficient condition to determine states' engagement with nationals abroad in the area of social protection. We argue that descriptive infrastructure offers only a limited picture of how protective states are of the diaspora; and that a comprehensive assessment of their engagement with non-residents should also consider the content of homeland public policies that enable nationals abroad to deal with social risks, regardless of the characteristics of the institutions implementing such policies. We define the latter as substantive infrastructure. We operationalise this concept via two dimensions: on the one hand, the role of sending states as social protection providers (i.e. *provision role*) and on the other hand, their function of facilitating access to welfare for non-resident nationals (i.e. *facilitation role*).

We define sending states' *provision role* as their ability to maintain a form of state-sponsored solidarity with the diaspora, either by allowing non-resident nationals to remain eligible from abroad for homeland-based social protection schemes or by creating special schemes specifically designed to address the welfare needs of this population. In volume 1 of this series (Lafleur and Vintila 2020a), we demonstrated that, within each one of the five policy areas analysed here (i.e. unemployment, health, family, old-age, and economic hardship), there are important variations in the array of specific social benefits that Member States make available to different categories of (mobile and non-mobile) individuals. We further showed that the eligibility criteria for accessing such benefits often vary even within the same policy area. To enable the comparison between Member States' policies towards their diaspora, we have therefore chosen in Table 1.2 to focus on one core benefit per policy area. Our analysis thus covers the following benefits: unemployment insurance benefits (depending on a qualifying period of contribution); contributory pensions (for individuals who reached the retirement age and/or sufficient years of contribution); family benefits (or "child benefits", covering the costs of bringing up children); health benefits in kind (access to doctors, hospitalisation, treatment) and social assistance (means-tested benefits aiming to prevent poverty).

For each benefit, we consider that Member States that allow nationals residing abroad to access home country benefits regardless of where they live (in the EU, the European Economic Area (EEA) or in third countries) put forward an extensive form of engagement with the diaspora. At the opposite pole, countries that strictly restrict access to welfare entitlements to residence in their territory, thus automatically disqualifying non-residents from receiving such benefits, show no engagement with the social protection of their diaspora. Finally, Member States that do allow benefit exportability for non-resident nationals, but condition it to specific categories of individuals (such as those residing in particular countries) or to certain periods of time (only during short stays abroad), show only a moderate type of engagement. For this intermediary category, it is important to note that the EU



**Table 1.2** Substantive infrastructure: homeland policies responding to the social protection needs of diaspora populations

EU Member States	Provision role					Facilitation role	
	Unemployment benefits	Health care	Contributory pensions	Family benefits	Social assistance	Assistance home country benefits	Assistance host country benefits
France	Moderate	Extensive	Extensive	Moderate	Moderate	Extensive	Moderate
Belgium	Moderate	Extensive	Extensive	Moderate	None	None	None
Italy	Moderate	Moderate	Extensive	Moderate	Moderate	Extensive	Moderate
Spain	Moderate	Moderate	Extensive	Moderate	Moderate	Extensive	Moderate
Portugal	Moderate	Moderate	Extensive	Moderate	Moderate	Moderate	Moderate
Austria	Moderate	Moderate	Extensive	Moderate	Moderate	None	None
Lithuania	Moderate	Moderate	Extensive	Moderate	None	Extensive	None
Romania	Moderate	Moderate	Extensive	Moderate	None	Moderate	Moderate
Bulgaria	Moderate	Moderate	Moderate	Moderate	None	Moderate	Moderate
Croatia	Moderate	Moderate	Moderate	Moderate	None	Moderate	Moderate
Cyprus	Moderate	Moderate	Extensive	Moderate	None	None	None
Czech R.	Moderate	Moderate	Extensive	Moderate	None	None	None
Denmark	Moderate	Moderate	Extensive	Moderate	None	None	None
Estonia	Moderate	Moderate	Extensive	Moderate	None	None	None
Finland	Moderate	Moderate	Extensive	Moderate	None	None	None
Germany	Moderate	Moderate	Extensive	Moderate	None	None	None
Greece	Moderate	Moderate	Extensive	Moderate	None	None	None
Hungary	Moderate	Moderate	Extensive	Moderate	None	None	None
Ireland	Moderate	Moderate	Extensive	Moderate	None	None	None
Malta	Moderate	Moderate	Extensive	Moderate	None	None	None
Netherlands	Moderate	Moderate	Extensive	Moderate	None	None	None
Poland	Moderate	Moderate	Extensive	Moderate	None	None	None
Slovakia	Moderate	Moderate	Extensive	Moderate	None	None	None
Slovenia	Moderate	Moderate	Extensive	Moderate	None	None	None
Sweden	Moderate	Moderate	Extensive	Moderate	None	None	None
Latvia	Moderate	Moderate	Moderate	Moderate	None	None	None
Luxembourg	Moderate	Moderate	Moderate	Moderate	None	None	None

Source: Own elaboration based on MiTSoPro data. Regarding the *provision role*, the type of engagement for each benefit is categorised as follows: (a) unemployment benefits (extensive- worldwide exportability; moderate- exportability only for short periods when moving to EEA countries; none- no exportability); (b) health care (extensive- beyond EU legislation, additional scheme allowing non-residents to maintain homeland health insurance to cover medical treatment abroad or at home; moderate- medical treatment during short stays in the EU based on EHIC; none- no in-kind benefits for non-residents); (c) pensions (extensive- worldwide exportability; moderate- exportability in the EEA or based on bilateral social security agreements; none- no exportability); family benefits (extensive- worldwide exportability; moderate- exportability in the EEA or based on bilateral agreements; none- no exportability); social assistance (extensive- granted to nationals abroad, regardless of their host countries; moderate- conditional financial help in situation of economic hardship; none- no assistance for non-residents)

legislation has pushed all Member States to adopt at least a moderate type of engagement with their diaspora. Indeed, the EU social security coordination framework made Member States more engaged with their nationals abroad in terms of recognition of the possibility to export certain benefits when leaving one's country of nationality. This applies for almost all benefits analysed here, except for social assistance; although it is restricted only to nationals of EU Member States who

move to other EU/EEA countries. As explained above, mobile EU citizens can continue to receive unemployment benefits for a short period when moving to another EU country with the purpose of finding a job. Similarly, they can receive medical treatment during short stays in another Member State based on the EHIC. The EU legislation also allows intra-EU migrants to receive contributory pensions from abroad, as well as family benefits in their EEA countries of residence, although the child resides in another EEA country. All these different situations in which EU nationals continue to enjoy social protection when moving abroad due to the EU legislation are categorized in Table 1.2 as moderate engagement, as they are always restricted in scope by covering only those moving to another EU/EEA country. Yet, some states have decided to take a step further in this regard by implementing diaspora-oriented social protection policies that go beyond this EU framework, thus putting forward an extensive engagement with their non-resident populations.

In addition to the *provision role*, the second important function that makes up sending states' substantive infrastructure is the *facilitation role*, which refers to policies by which homeland authorities support citizens abroad in the administrative procedures to access home or host country welfare entitlements. It is therefore a policy-based commitment to facilitate access to social protection and an explicit recognition by homeland authorities that holding formal welfare rights in the home or host country is often not sufficient to access those rights in practice. Three important remarks need to be made regarding this definition of the *facilitation role*. First, unlike the previous sections of this chapter that looked exclusively at benefits delivered by the homeland, in this section we acknowledge that homeland authorities can play an active part also when it comes to helping nationals abroad to access welfare schemes granted by their residence countries. For this reason, Table 1.2 distinguishes between the *facilitation role* to access home country and host country benefits. Second, our analysis of the *facilitation role* focuses on the same benefits previously discussed for the *provision role*: unemployment benefits, health care, family benefits, social assistance, and pensions. Third, we consider as support the array of activities conducted by homeland authorities beyond mere information provision. As discussed in the country chapters, providing information on home/host countries' welfare systems via websites and brochures, in person at consulates or even the facilitation of contacts of local NGOs and institutions active in the field of welfare is a very widespread practice EU Member States. In our view, active support however entails an intervention in citizens' individual cases by providing personalized assistance and/or representation of interests in administrative dealings with welfare authorities. From this perspective, the delivery of life certificates by consulates or providing information on pensions on the consulates' website, for example, cannot be considered as active support, but actual assistance to submit paperwork and ensure communication with pension authorities does qualify in this category.

To operationalise the level of support offered by homeland authorities to their diaspora, country experts examined the policies that define the missions of all institutions that compose each country's descriptive infrastructure to determine if such support is part of their missions. Similarly to other indicators used to measure sending states' substantive infrastructure, we identified three levels of engagement in the

*facilitation role*. Sending states with policies that identify a specific responsibility of any institution to support nationals abroad in applying for any host/home country benefits are considered to offer extensive support. Sending states whose policies only mention a general principle of support in the area of welfare are considered to offer moderate support as this usually leaves significant room for discretion to actually implement such active assistance. Lastly, sending states whose policies do not even mention a principle of welfare-related support are considered to have a low level of engagement.

Keeping in mind these remarks, Table 1.2 compares EU Member States according to the benefits they provide for non-resident citizens (column on *Provision role*) and their engagement in facilitating diaspora's access to welfare in home or host countries (column on *Facilitation role*). As observed, when it comes to the *provision role*, EU countries seem quite reluctant to extend welfare rights to their non-resident nationals. This goes in line with our previous findings (Vintila and Lafleur 2020) according to which, regardless of diaspora's size or its economic and electoral leverage, EU Member States subscribe to a restrictive pattern that disqualifies non-residents from in-kind or cash benefits, as entitlement to most of these benefits remains conditional upon residence in the country. When benefit exportability is possible, this is generally driven by the EU legislation. As mentioned, thanks to the implementation of EU social security regulations, all Member States currently put forward at least a moderate level of engagement with their nationals abroad when it comes to the type of benefits granted to the diaspora. As shown in Table 1.2, with the exception of pensions which are generally exportable worldwide (with few exceptions of countries which allow pension exportability only to EEA countries, unless otherwise stipulated in bilateral agreements), very few Member States went beyond the EU legislation in granting social rights to non-resident populations. Interesting examples of pro-active diaspora engagement initiatives come from France and Belgium in the area of health care. As explained in the country chapters, these two Member States have set up special insurance schemes for their nationals moving to non-EU countries, allowing them to receive medical treatment either abroad or at home.

It is also interesting to note that, in the area of social assistance – which is not covered by the EU social security legislation-, most Member States have not implemented any financial assistance scheme for nationals abroad who are facing strong economic hardship beyond mechanisms of consular cash advances (sometimes non-reimbursable) usually designed to help citizens facing emergencies while temporarily abroad (e.g. tourists). Yet, France, Italy, Spain, Austria, and Portugal also offer some conditional type of economic support for citizens permanently abroad to help them deal with unpredictable medical issues and/or economic hardship. This type of support usually takes the form of (either recurrent or non-recurrent) non-reimbursable financial help, although it varies substantially in its scope, aims and claim procedure. For instance, recurrent non-contributory benefits can be delivered by consular authorities, as it happens with Austria's Fund for the Support of Austrian Citizens Abroad or France's fixed-term social allowance. In some cases, only specific groups qualify for such exceptional financial assistance. As illustrated in this volume, this

is the case of Portuguese pensioners abroad who do not meet minimum subsistence levels and can apply for the “Social support for the deprived elderly of the Portuguese communities”.

As for the *facilitation role*, Table 1.2 demonstrates that France, Italy, and Spain represent the EU Member States that have assumed the most pro-active stance in facilitating the access of their nationals abroad to home or host country’s welfare benefits. The normative framework in these three countries clearly identifies an obligation for sending states’ authorities of different types to take an active role in the delivery of some homeland benefits. In the respective country chapters, this commitment is identified in the mission of France’s Consular Council, Italy’s Welfare Advice Agency and Spain’s Departments of Employment and Social Security at the consular level. On the other hand, Romania, Bulgaria, and Croatia put forward a more moderate engagement in this regard, as their consular policies only state a general commitment to support the diaspora to exercise social rights, without further details on the extent or content of such mission. Finally, Lithuanian authorities also provide assistance to nationals abroad to access welfare schemes from the home country, but not from the host. The other Member States do not provide any specific type of active support for facilitating non-residents’ access to welfare, apart from mere information on eligibility conditions for different types of social benefits.

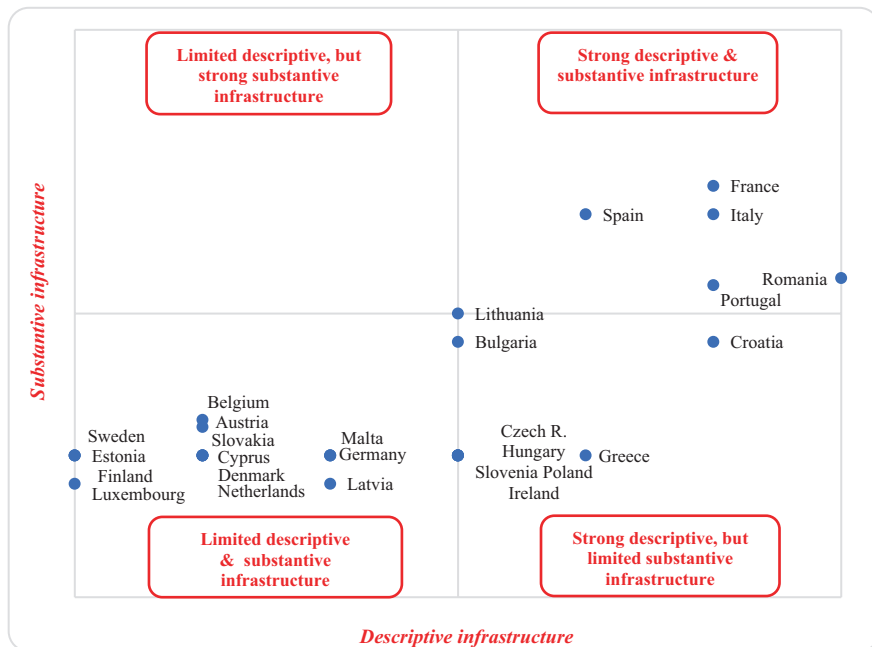
Finally, although EU states’ policy responses towards their diaspora populations in the context of the COVID-19 pandemic fall outside of the scope of this volume, it is also important to note that many Member States have adopted an array of emergency measures for their citizens abroad in situation of need during this pandemic. Some of these measures were specifically intended to provide practical help to nationals abroad affected by the COVID-19 crisis (see examples of repatriation initiatives<sup>17</sup>), whereas in others, such measures focused on facilitating consular assistance and/or providing information regarding the social protection schemes of home and host countries.

## 1.4 A Typology of EU Member States’ Social Protection Infrastructure for Citizens Abroad

At the outset of this introductory chapter, we postulated that existing research on diaspora policies does not take into consideration benefits and services deriving from the EU membership that protect EU citizens in situation of international mobility. When it comes to social protection, we showed in volume 1 of this series (Lafleur and Vintila 2020a) that, unlike other migrant groups, mobile EU citizens

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<sup>17</sup> See also: [https://eeas.europa.eu/headquarters/headquarters-homepage/76203/good-stories-consular-support-eu-citizens-stranded-abroad\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/76203/good-stories-consular-support-eu-citizens-stranded-abroad_en); [https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649359/EPRS\\_BRI%282020%29649359\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2020/649359/EPRS_BRI%282020%29649359_EN.pdf) (accessed 19 May 2020).



**Fig. 1.5** Typology of EU Member States by level of institutionalization and development of social protection policies for the diaspora  
 Source: Own elaboration based on MiTSoPro data. The horizontal axis captures states' descriptive infrastructure, calculated as an average of their network of consular, governmental and interest-representation institutions for the diaspora (Fig. 1.2). The vertical axis captures states' substantive infrastructure, calculated as an average of their active engagement in the *provision role* and the *facilitation role* (Table 1.2)

benefit from advanced access to their EU host countries' welfare systems. With the concepts of descriptive and substantive infrastructure, this chapter therefore aimed to identify institutions and policies that—beyond the EU framework—provide an additional layer of protection for diaspora populations of EU Member States, whether they live inside or outside the EU.

Figure 1.5 summarizes our main findings regarding Member States' performance in terms of descriptive and substantive infrastructures, thus aiming to generate a typology of sending states' engagement with nationals abroad in the field of social protection.

The Figure allows us to draw several important conclusions. First, almost half of EU Member States return a limited descriptive and substantive diaspora infrastructure. This seems to indicate a strong disengagement with their non-resident populations, as these countries combine a limited institutional network for the diaspora with limited engagement in providing or facilitating their access to welfare. Yet, a closer look at the geographical distribution of their diaspora allows us to nuance this conclusion. To begin with, for six of those Member States (Austria, Cyprus,

Belgium, Finland, Luxembourg, and Slovakia), most of their nationals abroad (up to more than 75% in some cases) concentrate in the EU. Hence, these countries may not perceive themselves as having global responsibilities towards their diaspora, especially since, by virtue of the EU citizenship status, most of their non-resident nationals are already protected in terms of access to welfare by EU regulations. Accordingly, these six Member States in particular are solely disengaged with a minority of their diaspora, namely those residing in non-EU countries. Of the remaining states in this first cluster, the country chapters demonstrate that some, which have a majority of non-resident nationals living outside the EU, are not necessarily less engaged. For instance, both Denmark and Sweden have Norway as a top non-EU destination for their diaspora and cooperate closely in the area of welfare with this country in the framework of the EEA and the Nordic agreements. Similarly, over one third of the Estonian and Latvian diaspora populations concentrate in the Russian Federation and are special minority groups with a particular status detailed in the respective country chapters. Lastly, Malta returns a limited descriptive and substantive infrastructure, although it has concluded advanced bilateral cooperation with the main non-EU destination countries of its diaspora. For instance, more than 40% of Maltese nationals abroad reside in Australia, but a bilateral agreement signed with this country ensures pensions payment abroad.<sup>18</sup>

Second, at the opposite end of the spectrum, a group of five EU Member States, including France, Italy, Spain, Portugal, and Romania, show a very strong engagement with their citizens abroad. All five countries combine extensive descriptive and substantive infrastructures for the social protection of non-resident nationals. In general, this position reflects a domestic political discourse about the importance of keeping ties with populations across the globe. Of these countries, Romania stands out as the EU Member State that, despite its relatively recent history of large-scale emigration, has put forward the most extensive network of descriptive infrastructure for its citizens abroad, which currently represent more than 15% of the country's total population. However, unlike France, Italy or Spain, Romania returns a more moderate engagement in the facilitation of its diaspora's access to homeland benefits, although this might be partially explained by the fact that most Romanians abroad (up to 85%) reside in other EU Member States where they already have access to social protection due to the EU citizenship status. Similarly, France also stands out in this cluster as the country with the strongest substantive infrastructure that allows its nationals abroad to keep accessing welfare benefits from France while residing outside Europe (see the discussion on the special insurance scheme for non-resident French in the corresponding country chapter).

A third cluster of countries combines a strong descriptive infrastructure with rather limited *provision* and *facilitation role* of sending states in ensuring non-residents' social protection. The EU Member States included in this cluster seem to confirm the importance of the symbolic dimension of state-diaspora relations. In

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<sup>18</sup> <https://www.dss.gov.au/about-the-department/international/international-social-security-agreements/current-international-social-security-agreements/australia-and-malta-frequently-asked-questions>. Accessed 16 March 2020.

this case, a strong level of institutionalization of diaspora relations does not automatically lead to an extensive array of policies and services for citizens abroad. Country chapters on the Czech Republic, Greece, Lithuania, Poland, and Slovenia demonstrate clearly that the development of diaspora institutions has not been guided by welfare concerns, but rather by the desire to promote homeland identity abroad. In that strategy, social protection appears with a low priority, especially when compared to culture, education or citizenship. Ireland seems to be an outlier of this third cluster as despite its relatively high level of institutionalisation towards the diaspora, it has limited diaspora-oriented social protection policies. As discussed in the country chapter, this position can be explained by the fact that Ireland subcontracts its welfare missions to non-governmental actors in the main destination countries of its diaspora. Country chapters also illustrate the existence in other Member States of this kind of policy of funding migration organizations whom, in some cases, perform services of relevance to the diaspora in the area of welfare. Their activities, however, fall outside of the scope of our study on policies since, by definition, such organizations are not part of the sending states' policy framework (i.e. not set in official norms) and cannot therefore be considered as a sending state response to the needs of the diaspora *stricto sensu*. Also, due to the fact that their funding is often limited in time and activities are oriented towards specific destination countries, it becomes difficult to draw any meaningful generalization from the observation of such activities.

Finally, this comparative overview also allows us to conclude that there is no EU Member State which has implemented extensive social protection policies for its diaspora without also having a well-developed institutional framework to engage with, consult or represent this population. This is visible in Fig. 1.5 by the absence of cases combining a strong substantive infrastructure with a limited descriptive infrastructure. In other words, states that aim to go beyond the EU framework in their diaspora protection policies tend to be those that have institutions that allow dialogue, contact and representation with this population. Lastly, the peculiar position of Lithuania at the centre of the graph deserves a word of explanation. Like most other Member States, Lithuania has a moderate substantive infrastructure with a dedicated institution at the sub-ministry level and a consultative body for diaspora affairs. Similarly, its engagement policies in the area of social protection are broadly limited to the EU framework. Yet, unlike in other Member States, the Lithuanian consular code identifies clear (but limited) responsibilities of its consulates in assisting citizens abroad to apply for some home country benefits.

The rest of the chapters included in this volume provide an in-depth analysis of EU Member States' responsiveness to the social protection needs of their diaspora populations, by providing rich empirical examples of the repertoire of policies and programmes through which EU countries engage with their nationals residing abroad. After providing a short overview of the main characteristics of the diaspora of each EU Member State, country chapters critically examine the network of institutions that home countries authorities have designed for their nationals abroad. By highlighting their key engagement policies to address diaspora's needs and by comparing the content of policies/services available to non-resident nationals, country

chapters thus provide a detailed assessment of the centrality of social protection issues in the overall policy framework by which EU Member States dialogue with their populations abroad.

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# Chapter 2

## Diaspora Policies, Consular Services and Social Protection for Austrian Citizens Abroad



Anita Heindlmaier

### 2.1 Introduction

Austria is engaged in a broad range of diaspora policies: from culture, citizenship matters, over economic policies to social protection. Yet, this chapter will demonstrate that Austrian policies towards citizens abroad focus on access to information, as “help for self-help”, and as guaranteeing a link to Austria(n culture), on voting rights as well as social protection in extreme cases of hardship.

In a first section hereafter, figures and characteristics on Austrians abroad will be presented, followed by an overview of Austrian domestic institutions and those abroad dealing with the matters of Austrians abroad. Subsequently, the key policies such as voting rights will be outlined. It will be demonstrated that especially citizenship matters and voting rights have had a high priority amongst Austrians abroad, leading to the fact that voting rights have been continuously extended within the past 30 years.

The second section of this chapter will focus on Austrian diaspora policies and social protection. It will be made clear that Austrian diaspora policies thus have to be grasped in the context of the Second World War and the *Anschluss*. Austria introduced several special policies for persons who suffered under the Nazi regime.

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## 2.2 Diaspora Policy Infrastructure and Key Policies

The first section begins with an overview of the Austrian diaspora and its relations with the homeland (2.2.1) as well as Austrian diaspora infrastructure (2.2.2). Afterwards, Austrian key engagement policies such as voting rights will be discussed (2.2.3).

### 2.2.1 *The Austrian Diaspora and Its Relations with the Homeland*

Emigration is not a new phenomenon in Austria. Yet, while only few Austrians emigrated before 1876, the economic situation and disparities caused millions of citizens to leave Austria between 1876 and the First World War. A high share of these persons settled in the US and in Canada. Between the two World Wars, emigration was even furthered by the Austrian government, as a measure to combat the economic crisis and unemployment. During the Nazi regime, in particular Jewish citizens, but also certain politicians, intellectuals or artists left respectively had to leave the country, whereof most went to the UK. This specific history explains several diaspora policies towards Austrians abroad as will be elaborated later.

After the Second World War, migration to the US and Canada declined, whereas that to the neighbouring countries, in particular Germany and Switzerland, increased. The latter migration has been largely labour-driven (Neyer 1995). According to the Austrian Federal Ministry for Europe, Integration and Foreign Affairs (FMEIA), around 565,000 Austrians live abroad nowadays. The majority of them reside in Germany (257,000 Austrians), followed by Switzerland (65,000), the US (35,000), and the UK (25,000).<sup>1</sup> The numbers are estimations, as Austrians abroad do not have to register since signing up with the registration service for Austrians abroad (*Registrierung für Auslandsösterreicher*) is done on a voluntary basis.

Austrians abroad have a strong identity-based link to their country of origin. According to a survey conducted by the FMEIA and the Worldwide Association of Austrian Associations Abroad in 2009, the key priorities of Austrians abroad are by far the following three: citizenship matters, questions about pension and insurance related to Austria, and the participation in Austrian elections. Return to their country of origin, social support abroad and information about Austria share the fourth place. With regard to the top priority of citizenship matters, a survey on this topic from 2005 demonstrates that the retention of the Austrian citizenship when obtaining another one, the passing on of the Austrian citizenship to children, and the

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<sup>1</sup>Bundesministerium für Europa, Integration und Äußeres (2019). *Treffpunkt AuslandsösterreicherInnen*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/treffpunkt-auslandsösterreicherinnen/>. Accessed 24 February 2019.

facilitation of dual citizenship, are of particular concern.<sup>2</sup> These interests of Austrians can, to some extent, explain the current shape of the country's diaspora policies.

### 2.2.2 *Diaspora Infrastructure*

Austria has embassies in around 80 countries of the worlds and undertakes diplomatic relations to 196 countries (ambassadors are also accredited in countries where Austria does not have an embassy). Besides, Austria has generate consulates in regions and countries where a high number of Austrians live respectively which have close cultural or economic relations to Austria: Brazil, China, Germany, France, Italy, Turkey, and the US. Austrian missions offer also mobile consular services to Austrians abroad who are unable to present themselves to the consulate because of their age or because of a sickness.<sup>3</sup> More than 300 honorary consulates in more than 130 countries of the world complement the Austrian consular network: honorary consuls are persons who, voluntarily, take on the interest of Austria and are a first contact point to Austrians (abroad) in regions where no mission which enjoys diplomatic status exists. Some of them forward documents to the competent authorities, some of them are even entitled to issue documents themselves such as life certificates (a list of all representations can be found on the website of the FMEIA).<sup>4</sup>

Besides these institutions abroad, a special department within the Federal Ministry for Europe, Integration and Foreign Affairs in Vienna is dedicated to Austrians abroad, the Office for Austrians Abroad and Digital Applications of Consular Citizens' Advice (*Büro für AuslandsösterreicherInnen und digitale Anwendungen in der konsularischen BürgerInnenbetreuung*, section IV.3 FMEIA). This office takes charge of any matters that concern Austrians abroad – inter alia their voting rights, questions related to assets abroad or in Austria as well as labour

<sup>2</sup>Bundesministerium für Europa, Integration und Äußeres (2019). *Themen*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/treff>. Accessed 24 February 2019.

<sup>3</sup>Bundesministerium für Europa, Integration und Äußeres (2019). *Life Certificate*. <https://www.bmeia.gv.at/en/travel-stay/living-abroad/documents-civil-status-family/life-certificate/>. Accessed 24 February 2019; *Pensionsversicherungsanstalt* (2018). *Lebensbestätigung*. <http://www.pensionsversicherung.at/portal27/pvportal/content/contentWindow?contentid=10007.707694&action=2>. Accessed 24 February 2019.

<sup>4</sup>Bundesministerium für Europa, Integration und Äußeres (2019). *Directory of Austrian Representations*. <https://www.bmeia.gv.at/en/embassies-consulates/search-for-austrian-representations/>. Accessed 24 February 2019; Bundesministerium für Europa, Integration und Äußeres (2019). *Welche Arten von österreichischen Vertretungen gibt es?* <https://www.bmeia.gv.at/botschaften-konsulate/suche-nach-oesterreichischen-vertretungen/welche-arten-von-vertretungen-gibt-es/>. Accessed 24 February 2019; Bundesministerium für Europa, Integration und Äußeres (2019). *Austrian Representations*. <https://www.bmeia.gv.at/en/embassies-consulates/search-for-austrian-representations/>. Accessed 24 February 2019.

law and social law matters – and forwards their requests to the competent Ministries, in case of citizenship matters for instance the Ministry of the Interior. It further collaborates with the Worldwide Association of Austrian Associations Abroad (*Auslandsösterreicher-Weltbund*, AÖWB), for instance when identifying the priorities of Austrians abroad, and supervises the fund for Austrians abroad (see below).<sup>5</sup>

All nine Austrian regions have a department within their government which is inter alia concerned with Austrians abroad.<sup>6</sup> Several regions even have a special section exclusively dedicated to Austrians abroad, for instance Styria. Its Office for Styrians abroad (*Büro für Auslandssteirer*) seeks to strengthen the ties to the region via cultural, personal, economic, sports and touristic contacts and projects.<sup>7</sup>

Out of the five parties in the Lower Chamber of the Austrian Parliament, the *Nationalrat*, only NEOS – The New Austria and Liberal Forum (*NEOS – Das Neue Österreich und Liberales Forum*) has a special section for Austrians abroad. In addition to the regional groups of the nine regions within Austria, this party has a group for Austrians abroad, as “10th region” of Austria (*NEOS X – 10th region*).<sup>8</sup> This section is led by a small team on a voluntary basis. NEOS also actively encourages Austrians abroad to stand as candidates in national legislative elections. In order to do so, they do not have to be proposed by a party committee but can simply decide themselves to run for the preliminary online election in order to receive a place on the list of NEOS.

As an umbrella association, the Worldwide Association of Austrian Associations Abroad (*Auslandsösterreicher-Weltbund*, AÖWB) with its head office in Vienna pools and articulates the interests of Austrians abroad, thereby being in close contact with the FMEIA, and provides information about Austria and a link to Austria(n culture) to Austrians abroad. This association is, to a large share, funded by the FMEIA and the Austrian regions. It holds conferences and meetings abroad as well as in Austria (one *Weltbund*-conference per year in Austria), publishes the quarterly journal *Rotweissrot*, and runs the platform [Austrians.org](http://Austrians.org), a social network where Austrians (abroad) and friends of Austria can interact, thus establish and maintain contacts and share information. On the website of the AÖWB, Austrians abroad can search for the associations in their specific country of residence.<sup>9</sup> Amongst the nine Austrian regions, only Burgenland has a special association for its citizens abroad, the Burgenland Community (*Burgenländische Gemeinschaft*),

<sup>5</sup> *Bundesministerium für Europa, Integration und Äußeres* (2019). *Geschäftseinteilung. Abteilung IV.3*. <https://www.bmeia.gv.at/das-ministerium/geschaefteinteilung/organisation/show/abteilung-iv3/>. Accessed 24 February 2019.

<sup>6</sup> For an overview: *Auslandsösterreicher-Weltbund* (2004). *Information – Adressen*. [http://www.weltbund.at/service\\_adressen.asp](http://www.weltbund.at/service_adressen.asp). Accessed 24 February 2019.

<sup>7</sup> *Land Steiermark – Amt der Steiermärkischen Landesregierung* (2019). *Mission*. <http://www.verwaltung.steiermark.at/cms/beitrag/10183755/5051212>. Accessed 24 February 2019.

<sup>8</sup> NEOS (2019). *NEOS X – 10. Bundesland*. <https://international.neos.eu/>. Accessed 24 February 2019.

<sup>9</sup> *Auslandsösterreicher-Weltbund* (2016). *Herzlich Willkommen beim Auslandsösterreicher-Weltbund*. <http://www.weltbund.at>. Accessed 24 February 2019.

whose aim is to maintain and strengthen the ties to Burgenland, promote the interests of *Burgenländers* abroad and to organize events. It publishes the journal *Burgenländische Gemeinschaft*.<sup>10</sup>

### 2.2.3 Key Engagement Policies

As consular policies are traditionally a central feature of sending states' engagement with citizens abroad, it is noteworthy that —unlike the majority of other European states—Austria did not have any national legal basis for consular services until recently. The latter were solely based upon the Vienna Convention on Consular Relations and there was only an internal guideline on consular and diplomatic services of the FMEIA. Recently, the transposition of *Directive (EU) 2015/637 of 20 April 2015 on the coordination and cooperation measures to facilitate consular protection for unrepresented citizens of the Union in third countries and repealing Decision 95/553/EC* was taken as grounds for changing the situation. Besides the transposed Directive, the – at the time of the chapter envisaged – *Federal Law on the exercise of consular functions (Bundesgesetz über die Wahrnehmung konsularischer Aufgaben)* intends to contain sections on consular tasks which codify the already existing practices and clarify the (non-)duties of Austrian representations. For instance, its draft explains that Austrians staying abroad do not have any legal right to financial aid by Austrian missions.<sup>11</sup>

In general, consular support is considered as “help for self-help” meaning that consulates (and the FMEIA) provide first support, information and contacts so that Austrians abroad can “organize appropriate assistance” (CARE Project 2010: 54). In terms of basic protection policies, Austrian diaspora institutions provide first information and contacts so that Austrians abroad can arrange for further assistance. As I shall discuss in Sect. 2.3, additional actions by home country institutions can be taken in cases of emergency and hardship via the Fund for the Support of Austrian Citizens Abroad, and a Christmas campaign for Austrian citizens abroad where (in-kind) donations are collected and distributed amongst Austrians abroad who are in need. Moreover, Austrians abroad who are of old age or seriously ill can be taken over into care in Austria. Finally, Austria has also concluded a number of social security agreements that respond to specific social protection needs of citizens abroad (see Sect. 2.3).

<sup>10</sup> *Bundesministerium für Europa, Integration und Äußeres* (2019). Associations representing Austrians abroad. <https://www.bmeia.gv.at/en/travel-stay/living-abroad/meeting-point-austrians-abroad/associations-representing-austrians-abroad/>. Accessed 24 February 2019.

<sup>11</sup> *Nationalrat* (2018). 106/ME XXVI. GP – Ministerialentwurf – Gesetzestext. [https://www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME\\_00106/fname\\_724513.pdf](https://www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME_00106/fname_724513.pdf). Accessed 24 February 2019; *Nationalrat* (2018). 106/ME XXVI. GP – Ministerialentwurf – Vorblatt und Wirkungsorientierte Folgenabschätzung. [https://www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME\\_00106/fname\\_724514.pdf](https://www.parlament.gv.at/PAKT/VHG/XXVI/ME/ME_00106/fname_724514.pdf). Accessed 24 February 2019.

For further administrative tasks, e.g. for issuing passports or certifying documents, costs must be covered by citizens. The respective costs are regulated in the Consular Fees Act (*Konsulargebührengesetz 1992*). Moreover, there is a special regulation that lays down how to certify documents (*Verordnung des Bundesministers für Auswärtige Angelegenheiten vom 16. März 1984 betreffend Beglaubigungen durch österreichische Vertretungsbehörden im Ausland*). In order to facilitate the interaction of Austrian citizens with Austrian authorities, a mobile phone signature was introduced. This signature serves as a “virtual ID card” and allows users, for instance, to request authorities to issue documents or to apply for a ballot, at least within the European Union (EU). The mobile phone signature needs to be activated which can be undertaken in registration centres in Austria but also in eight Austrian representations within Europe.<sup>12</sup>

On its website, the FMEIA lists some advices on how to make adequate preparations when moving abroad. These advices contain administrative formalities and provisions for social protection (see details on the latter in 2.3).<sup>13</sup> First of all, Austrians abroad are encouraged to sign up with the registration service for Austrians abroad (*Registrierung für AuslandsösterreicherInnen*) of the FMEIA, what can be undertaken online or with the relevant Austrian representation. Being registered guarantees that the Austrian missions as well as the Ministry can contact Austrians abroad in case of emergency and can provide information which may be useful for the stay abroad. Moreover, the representation can inform them about political events or reforms in Austria and invite them to events which it organizes, for instance receptions on the occasion of the Austrian National Day.<sup>14</sup>

One of the major Austrian policies towards citizens abroad concerns electoral rights. Since 1990, Austrians abroad are allowed to vote in elections at the national level, i.e. presidential elections, legislative elections (Lower House) and EU elections, as well as in referenda. They had, however, to fight for these rights as well as for facilitated procedures: While Austrians abroad had already claimed the right to vote for quite some time, it was only in 1989 that the Austrian Constitutional Court held that the Austrian law on elections (*WählerevidenzG 1973*) violated the constitution by excluding persons who did not reside in Austria from the right to vote.<sup>15</sup> In 1990, Austrians abroad had thus, for the first time, the right to take part in national

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<sup>12</sup>The representations in Berlin, Bern, Brussels, London, Madrid, Milan, Munich and Stockholm can activate the signature. *Bundesministerium für Europa, Integration und Äußeres* (2019). *Handy-Signatur* (mobile phone signature). <https://www.bmeia.gv.at/en/travel-stay/living-abroad/meeting-point-austrians-abroad/handy-signatur-mobile-phone-signature/>. Accessed 24 February 2019.

<sup>13</sup>*Bundesministerium für Europa, Integration und Äußeres* (2019). *Übersiedlung*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/uebersiedlung/>. Accessed 24 February 2019; *Bundesministerium für Europa, Integration und Äußeres* (2019). *Übersiedlung ins Ausland*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/uebersiedlung/uebersiedlung-ins-ausland/>. Accessed 24 February 2019.

<sup>14</sup>*Bundesministerium für Europa, Integration und Äußeres* (2019). *Registrierung*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/treffpunkt-auslandsoesterreicherinnen/registrierung/>. Accessed 24 February 2019.

<sup>15</sup>Austrian Constitutional Court, judgment of 16 March 1989, G218/88.

elections (Chlestil 2013). In general, parties' views on extended rights and facilitated procedures for Austrians abroad differ. It is in particular the Austrian People's Party (Österreichische Volkspartei, ÖVP), beneficiary of votes of Austrians abroad, that stands up for these issues. Recently, it demanded a further facilitation, the introduction of e-voting for Austrians abroad (Mittelstaedt 2016).

In order to be eligible to vote, Austrians abroad need to meet the general criteria: they have to be at least 16 years old and must not be excluded from the right to vote (e.g. while serving a prison term). As an additional precondition, Austrians residing abroad need to file an application to the relevant municipality (if applicable the last place of residence) in order to be taken up into the (EU) electoral register (*(Europa-) Wählerevidenz*; one form) respectively in order to stay registered as a voter. When signing up for the EU electoral register, Austrians abroad also need to make a formal declaration. The application can be filed at any time, also online or via the mobile phone signature (if applicable). The registration is valid for a period of 10 years and has to be renewed afterwards. Austrians residing abroad are notified shortly before the expiry by the relevant municipality.

Austrians abroad are informed about upcoming elections by their competent municipality. In order to be able to vote, they need to request a ballot (*Wahl-/Stimmkarte*) in person or in writing (or via the mobile phone signature if applicable) with the relevant municipality in due time before the respective election. They can also request the ballot via the Austrian representative authority, or they can request an automatic sending for a period of 10 years. In order to make their vote count, Austrians abroad can then send the ballot via mail from abroad; the card has to arrive by 5 p.m. on election day. At least 6 days (respectively 9 days if outside of the European Economic Area/Switzerland) before election day, Austrians abroad can also submit their ballot to an Austrian representative authority which then forwards it to the respective municipality. If being present in Austria, Austrians abroad can also vote in person at the polling station where they are registered on election day.<sup>16</sup> Reports however show that Austrians are de facto partly excluded from making their vote count because ballots sent via post tend to arrive after election day.<sup>17</sup>

Austrians abroad can also stand as candidates in national elections. There are no restrictions with regard to the time spent abroad or the requirement of a (previous) residence in Austria. Except from the registration before the relevant deadline,

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<sup>16</sup> Bundesministerium für Europa, Integration und Äußeres (2019). *Wahlrecht*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/wahlen/wahlrecht/>. Accessed 24 February 2019; Bundesministerium Digitalisierung und Wirtschaftsstandort (2019). *Eintragung in die (Europa-) Wählerevidenz – Auslandsösterreicher*. <https://www.help.gv.at/Portal.Node/hlpd/public/content/48/Seite.480403.html>. Accessed 24 February 2019; Bundesministerium Digitalisierung und Wirtschaftsstandort (2019). *Stimmabgabe im Ausland*. <https://www.help.gv.at/Portal.Node/hlpd/public/content/32/Seite.320510.html>. Accessed 24 February 2019; Bundesministerium Digitalisierung und Wirtschaftsstandort (2019). *Wahlkarte/Stimmkarte*. <https://www.help.gv.at/Portal.Node/hlpd/public/content/32/Seite.320520.html#Wahlkarte>. Accessed 24 February 2019.

<sup>17</sup> OSCE (2018). Republic of Austria. Early Parliamentary Elections 15 October 2017. OSCE/ODIHR Election Assessment Mission Final Report. <https://www.osce.org/odihr/elections/austria/370866?download=true>. Accessed 24 February 2019.



Austrians abroad need to fulfil the same conditions such as Austrians residing in Austria.<sup>18</sup>

Since 2007, Austrian regions can allow Austrians abroad to vote in regional parliamentary elections. Precondition is that Austrians abroad had their main residence in the region before and that they transferred their main residence abroad less than 10 years prior to the election. Only three regions make use of this possibility to date: Lower Austria, Tyrol and Vorarlberg. As an example, the rules and procedure for the parliamentary elections in Tyrol will be laid down in the following.

Tyroleans abroad need to be, such as residents, at least 16 years old and must not be denied the right to vote (e.g. while serving a prison term). As an additional precondition, Tyroleans abroad need to file an application with the relevant municipality of their last place of residence in Tyrol in order to be taken up into the regional electoral register (*Auslandstirolerevidenz*), before the respective deadline of the election. The registration is valid for a maximum period of 10 years. The modalities to cast a ballot correspond in general to those of the national elections (however, Tyroleans abroad can only cast their ballot at any polling station within the *region*). They are under the same conditions as residents eligible to run as candidates.<sup>19</sup> In Lower Austria and Burgenland, also persons with a secondary residence are allowed to vote. This makes it easier for Austrians abroad to vote (Stern and Valchars 2013).

Looking at other consular tasks, Austrian missions are in general the competent authorities that issue personal documents for Austrians abroad, such as passports, ID cards, or certificates of citizenship.<sup>20</sup> With the introduction of the central civil registry (*Zentrales Personenstandsregister*) in 2014, they can also issue civil status documents (*Personenstandsurkunden*), i.e. birth, marriage and death certificates, since they have obtained access to the necessary information and thus no longer have to receive such documents from authorities in Austria.<sup>21</sup> In case of the death of an Austrian abroad, the Austrian representation can, if necessary, take preliminary administrative measures to secure the estate, e.g. sealing off of property.<sup>22</sup>

<sup>18</sup>They may not be excluded from the right to vote (e.g. while serving a prison term) and be at least 18 years old with regard to the legislative election (Lower House) and the EU election respectively 35 years old with regard to the presidential election. *Bundesministerium für Europa, Integration und Äußeres* (2019). *Wahlrecht*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/wahlen/wahlrecht/>. Accessed 24 February 2019.

<sup>19</sup>*Bundesministerium Digitalisierung und Wirtschaftsstandort* (2019). *Aktives Wahlrecht – Landtagswahl in Tirol am 25. Februar 2018*. <https://www.help.gv.at/Portal.Node/hlpd/public/content/32/Seite.320745.html>. Accessed 24 February 2019; *Bundesministerium für Europa, Integration und Äußeres* (2019). *Wahlrecht*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/wahlen/wahlrecht/>. Accessed 24 February 2019.

<sup>20</sup>*Bundesministerium für Europa, Integration und Äußeres* (2019). Documents, civil status, family. <https://www.bmeia.gv.at/en/travel-stay/living-abroad/documents-civil-status-family/>. Accessed 24 February 2019.

<sup>21</sup>*Bundesministerium für Europa, Integration und Äußeres* (2019). Living abroad. <https://www.bmeia.gv.at/en/travel-stay/living-abroad/>. Accessed 24 February 2019.

<sup>22</sup>*Bundesministerium für Europa, Integration und Äußeres* (2019). Death of an Austrian citizen abroad. <https://www.bmeia.gv.at/en/travel-stay/service-for-citizens/emergencies-abroad/death-of-an-austrian-citizen-abroad>. Accessed 24 February 2019.

As concerns economic policies concerning citizens abroad, Austria has been much less active than other states as it has only signed a range of agreements with other countries to avoid double taxation of income and capital.<sup>23</sup> At the cultural level, on the contrary, Austria has 29 Austrian Cultural Forums (*Kulturforen*) in 27 countries (that can be considered as “Embassies for culture”) designed to guarantee cultural exchanges. These forums organize cultural as well as academic projects (often in collaboration with local institutions) and support Austrian cultural practitioners in providing contacts.<sup>24</sup> Moreover, there are eight Austria Institutes (*Österreich Institute*) which do not exclusively target Austrian citizens abroad. These institutes offer German classes and seek to ensure cultural exchanges.<sup>25</sup> Austrians abroad have also access to their German classes but need to bear the costs themselves, similarly to foreigners.

### 2.3 Diaspora Policies and Social Protection in Austria

In line with its approach of “help for self-help”, Austrian policies for citizens abroad in the area of social protection consist primarily of providing information. For instance, information about relevant social security agreements between Austria and other countries is given. Yet, in cases of hardship, Austrians abroad can apply for financial assistance or, in case they are old or seriously ill and can no longer provide for themselves, for repatriation to Austria. This section starts by giving a brief overview of the information strategies regarding the social rights of Austrians abroad and of consular interventions in-cash or in-kind, followed by an analysis of five main policy areas: unemployment, health care, pensions, family-related benefits, and economic hardship.

Austrians abroad or those who plan to go abroad find basic information about social protection and contacts on the websites of the FMEIA and the relevant Austrian representation.<sup>26</sup> For further information, they can contact the consulates or the FMEIA, or directly the competent (social security) authority. Besides the EU legal framework, Austria has signed several bilateral agreements with other countries regarding social security. These agreements generally set the rule that nationals of the two countries should be treated equally with regard to social security.

<sup>23</sup> *Bundesministerium für Finanzen* (2017). The Austrian Tax Treaty Network. <https://english.bmf.gv.at/taxation/The-Austrian-Tax-Treaty-Network.html>. Accessed 24 February 2019.

<sup>24</sup> *Bundesministerium für Europa, Integration und Äußeres* (2019). *Welche Arten von österreichischen Vertretungen gibt es?* <https://www.bmeia.gv.at/botschaften-konsulate/suche-nach-oessterreichischen-vertretungen/welche-arten-von-vertretungen-gibt-es/>. Accessed 24 February 2019.

<sup>25</sup> *Österreich Institut* (2019). About us. <https://www.oesterreichinstitut.at/information-in-english>. Accessed 24 February 2019.

<sup>26</sup> *Bundesministerium für Europa, Integration und Äußeres* (2019). *Gesundheit und Soziales*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/gesundheit-und-soziales/>. Accessed 24 February 2019.

In particular, they intend to secure rights of persons who have worked in both countries, e.g. by adding up the insurance periods in both countries for benefit entitlement (for further details see subsections below).<sup>27</sup> Here again, both the websites of the FMEIA and of Austrian representations link to the relevant website of the Ministry of Social Affairs which lists these agreements and thus provides first further information.<sup>28</sup> As a matter of good practice, Austria encourages persons to take precautions for their residence abroad and take out insurance beforehand as well as arrange for documents such as living wills or health care proxies in the event that they are no longer able to manage their own affairs.<sup>29</sup>

Several consular interventions in-cash or in-kind rather concern Austrians on vacation, but may also be used by Austrians residing abroad: In case of loss or theft of monetary assets and if transfers via Western Union are not possible, Austrians (abroad) can make a deposit with the FMEIA, by transferring money from either the own Austrian bank account or the bank account of relatives or friends to which the Austrian representation establishes the contact. If this is not possible, the Austrian representation may grant a repatriation loan that the person has to repay later. Precondition is, however, that the person is still registered in Austria and that the emergency situation is not the fault of the person.<sup>30</sup> In case of accident or death, consulates can inform relatives and provide further contacts. And representations can assist in arranging for the repatriation transportation of ill, injured and deceased Austrians. The expenses have to be taken over by relatives and (if available) an insurance.

For Austrians abroad, a special fund was established in 1967, the Fund for the Support of Austrian Citizens Abroad (see details below, Sect. 2.3.5). And with regard to Austrians abroad of old age or those who are seriously ill and who are no longer able to provide for themselves, Austria has a special repatriation policy, *Austrians' abroad return to Austria in special emergencies* (see details below, Sect. 2.3.2).<sup>31</sup>

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<sup>27</sup> *Bundesministerium für Europa, Integration und Äußeres* (2019). Agreements on social security <https://www.bmeia.gv.at/en/travel-stay/living-abroad/gesundheits-und-soziales/agreements-on-social-security/>. Accessed 24 February 2019.

<sup>28</sup> *Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz* (2018). *Zwischenstaatliche Beziehungen Österreichs im Bereich der sozialen Sicherheit auf einen Blick* [https://www.sozialministerium.at/cms/site/attachments/0/9/1/CH3434/CMS1470041431373/abkommensuebersicht\\_1-3-18.pdf](https://www.sozialministerium.at/cms/site/attachments/0/9/1/CH3434/CMS1470041431373/abkommensuebersicht_1-3-18.pdf). Accessed 24 February 2019.

<sup>29</sup> *Bundesministerium für Europa, Integration und Äußeres* (2019). *Gesundheit und Soziales*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/gesundheits-und-soziales/>. Accessed 24 February 2019.

<sup>30</sup> *Bundesministerium für Europa, Integration und Äußeres* (2019). Loss of cash <https://www.bmeia.gv.at/en/travel-stay/service-for-citizens/emergencies-abroad/loss-of-cash/>. Accessed 24 February 2019.

<sup>31</sup> *Bundesministerium für Europa, Integration und Äußeres* (2019). *AÖ Rückkehr nach Österreich in besonderen Notlagen*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/gesundheits-und-soziales/aoe-rueckkehr-nach-oesterreich-in-besonderen-notlagen/>. Accessed 24 February 2019.

Having outlined the general policies with regard to social protection, the subsequent subsections will deal with specific areas of unemployment, health care, pension, family-related benefits and economic hardship.

### 2.3.1 Unemployment

Beyond the European framework that guarantees access to unemployment benefits to Austrians who move abroad, the intervention of Austrian authorities in the area of unemployment is rather limited. First information about unemployment benefits abroad can be found on the websites of the FMEIA (short information and links to further websites), the Ministry for Social Affairs as well as the Austrian Employment Service (*Arbeitsmarktservice*, AMS). With regards to the ability to export unemployment benefits, the general rule is that Austrians moving abroad cannot draw Austrian unemployment benefits abroad. Austrians who go abroad, inside and outside the EU, in order to seek for employment can be allowed to export their unemployment benefits for a maximum period of 3 months. They need to file a request of indulgence (*Nachsichtansuchen*) with their regional branch of the Austrian Employment Service in which they list the reasons and, if necessary, submit confirmations.<sup>32</sup>

As concerns the conditions of access to unemployment benefits in non-EU destination countries, few bilateral social security agreements allow it. For instance the agreement between Austria and Serbia (*Abkommen zwischen der Republik Österreich und der Republik Serbien über Soziale Sicherheit*) provides for the option of cumulating contribution periods, in case a person was insured at least 26 weeks within the last 12 months. On the contrary, agreements with countries such as the US, Canada or Australia, where many Austrians abroad reside, do not contain provisions which ensure an agglomeration of contribution periods.

### 2.3.2 Health Care

As first basic information regarding health abroad, the Federal Ministry for Europe, Integration and Foreign Affairs lists health risks and security risks in particular countries on its website – for both Austrian tourists and Austrians abroad.<sup>33</sup> Moreover, as already held earlier, the FMEIA encourages Austrians to provide for

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<sup>32</sup>*Arbeitsmarktservice Österreich* (2019). *Leistungsexport*. <http://www.ams.at/ratgeber-arbeitsuchende/anspruch-export>. Accessed 24 February 2019.

<sup>33</sup>*Bundesministerium für Europa, Integration und Äußeres* (2019). *Reiseinformation*. <https://www.bmeia.gv.at/reise-aufenthalt/reiseinformation>. Accessed 24 February 2019; *Bundesministerium für Europa, Integration und Äußeres* (2019). *Reisewarnungen*. <https://www.bmeia.gv.at/reise-aufenthalt/reisewarnungen/>. Accessed 24 February 2019.

their residence abroad and unforeseen situations: Austrians should arrange for living wills, health care proxy, and insurance.<sup>34</sup>

Austrian representations maintain a network of trusted medical examiners abroad which can be found online or whose contact details can be obtained with the relevant Austrian representation.<sup>35</sup> In case of emergency abroad and if persons do not receive help from any other organization, the relevant Austrian representation can assist in arranging treatment. Moreover, it can inform relatives and friends. Concerning Austrians imprisoned abroad, consulates can intervene if they face inadequate conditions, e.g. with regard to medical care. This is mostly applicable to Austrians who are on vacation abroad but may also be relevant for Austrians residing abroad.<sup>36</sup>

Health is part of some social security agreements between Austria and other countries. For instance the agreement with Serbia lays down that nationals having an insurance of one country can enjoy the same medical treatment as nationals in the other country. This may also concern Austrians who live there and draw the Austrian pension (and no pension in the country of residence): their treatment abroad is covered by the Austrian health insurance.<sup>37</sup> Yet, the agreements with the US, Canada and Australia which are home to a high number of Austrians do not contain such rules.<sup>38</sup>

With regard to seriously ill Austrians residing abroad or those of old age who are no longer able to provide for themselves and who have no relatives that can help them and who thus find themselves in an extreme situation, Austria has a special repatriation policy, *Austrians' abroad return to Austria in special emergencies (AÖ Rückkehr nach Österreich in besonderen Notlagen)*, former *takeover into home care (Übernahme in die heimatische Fürsorge)*. This policy may also be understood against the background of the Second World War when a lot of persons had to leave Austria. For being repatriated to Austria and placed in a hospital, Austrians abroad or (psychiatric) hospitals approach the respective representation and describe the

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<sup>34</sup> Bundesministerium für Europa, Integration und Äußeres (2019). *Gesundheit und Soziales*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/gesundheits-und-soziales/>. Accessed 24 February 2019.

<sup>35</sup> Bundesministerium für Europa, Integration und Äußeres (2019). Austrian Representations. <https://www.bmeia.gv.at/en/embassies-consulates/search-for-austrian-representations/>. Accessed 24 February 2019.

<sup>36</sup> Bundesministerium für Europa, Integration und Äußeres (2019). Emergencies abroad. <https://www.bmeia.gv.at/en/travel-stay/service-for-citizens/emergencies-abroad>. Accessed 24 February 2019; Bundesministerium für Europa, Integration und Äußeres (2019). Sickness and accidents. <https://www.bmeia.gv.at/en/travel-stay/service-for-citizens/emergencies-abroad/sickness-and-accidents/>. Accessed 24 February 2019.

<sup>37</sup> Pensionsversicherungsanstalt (2019). *Information für im Ausland lebende Pensionisten und Pensionistinnen*. Wien: Pensionsversicherungsanstalt.

<sup>38</sup> Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz (2018). *Zwischenstaatliche Beziehungen Österreichs im Bereich der sozialen Sicherheit auf einen Blick* [https://www.sozialministerium.at/cms/site/attachments/0/9/1/CH3434/CMS1470041431373/abkommensuebersicht\\_1-3-18.pdf](https://www.sozialministerium.at/cms/site/attachments/0/9/1/CH3434/CMS1470041431373/abkommensuebersicht_1-3-18.pdf). Accessed 24 February 2019.

special emergency situation. This information is forwarded to the FMEIA. It is carefully assessed whether repatriation would make sense, taking also into account whether the persons agree upon being taken to Austria and whether they still have any link to Austria, and how the social security situation in the current state of residence is. The FMEIA communicates the fact to the Ministry of Social Affairs, which, in turn, is in contact with the regions of Austria to find whether and where to place the person. The financial aspects of the takeover are decided upon on an individual basis taking insurance, assets, income and relatives into account.<sup>39</sup> The policy was renamed in order to clarify that Austrians abroad do not have any legal entitlement to be repatriated.

Persons who emigrated between March 1933 and March 1945 due to serious reasons related to the Nazi regime can be entitled to care allowance if they draw victim relief benefits or an Austrian pension (see details under Sect. 2.3.3). Austrian representations assist persons with regard to the forms and contacts to the medical examination which is required for the application.<sup>40</sup>

### 2.3.3 Pensions

Similarly to my previous discussion, Austria's engagement in the area of pensions beyond EU legislation is mostly limited to the provision of information and the signature of bilateral social security agreements. The Austrian pension insurance institution (*Pensionsversicherungsanstalt*, PVA) provides general information for Austrians abroad on its websites and has particular brochures for pensioners living abroad in several languages, e.g. English and French. Furthermore, Austrian pensioners abroad can always contact the headquarters of the pension insurance institution in Vienna if they have questions. In some destination countries, the PVA offers international consultation days, both in Austria and in the respective country (currently – inter alia – Germany and Switzerland), where also Austrian pensioners abroad can be offered individual consultation.<sup>41</sup> These consultation days are organized by the PVA and the pension institution of the respective other country.<sup>42</sup>

<sup>39</sup> Bundesministerium für Europa, Integration und Äußeres (2019). *AÖ Rückkehr nach Österreich in besonderen Notlagen*. <https://www.bmeia.gv.at/reise-aufenthalt/leben-im-ausland/gesundheits-und-soziales/aoe-rueckkehr-nach-oesterreich-in-besonderen-notlagen/>. Accessed 24 February 2019.

<sup>40</sup> Österreichische Botschaft Washington (2019). *Pension & Sozialangelegenheiten*. <http://botschaft.austria.org/pensionen-soziales/>. Accessed 24 February 2019.

<sup>41</sup> Pensionsversicherungsanstalt (2019). *Information für im Ausland lebende Pensionisten und Pensionistinnen*. Wien: Pensionsversicherungsanstalt.

<sup>42</sup> Pensionsversicherungsanstalt (2019). *Internationale Beratungstermine in Österreich 2018*. <https://www.pensionsversicherung.at/cdscontent/load?contentid=10008.664524&version=1543396677>. Accessed 24 February 2019; Pensionsversicherungsanstalt (2019). *Internationale Sprechtag mit Beteiligung der Pensionsversicherungsanstalt 2018*. <https://www.pensionsversicherung.at/cdscontent/load?contentid=10008.665244&version=1549953863>. Accessed 24 February 2019.

Austrian pensions can be exported<sup>43</sup> and, to do so, Austrians living abroad need to submit a life certificate once a year to the Austrian pension insurance institution which can be certified by the relevant Austrian representation. The PVA sends out this certificate to Austrians abroad in January and Austrians abroad need to return it within 6 weeks. If they have not received it by the end of February, they can also print the document (available on the website of the PVA), have it certified and send it back to the PVA. In order to be certified the life certificate, Austrians abroad can present themselves in person to the responsible representation (embassy, consulate general, honorary consul) and prove their identity (or to an official authority of the place of their residence or a notary public). If persons are not able to present themselves to the consulate due to age or sickness, the latter can also – provided that this can be performed without a lot of effort – come to the persons.<sup>44</sup> Exceptions from this rule can be made in Germany: pensioners living in Germany can be paid out the pension in cash via the German post office. In this case, they do not need to submit the yearly life certificate. Beside the old-age pension, Austrians abroad can also draw invalidity pension, widow's/widower's pension or orphan's pension.<sup>45</sup>

Beyond the EU legal framework, Austria has a range of bilateral social security agreements with other countries that allow for periods of contributions in both countries to be taken into account in the calculation of their pension. For instance, the agreement with the US stipulates that periods of insurance in the other country can be added if an insurance period of at least 18 months in the US (if the application is made in the US) or of at least 12 months in Austria (if the application is made in Austria) can be met.

Due to its history, Austria grants special assistance, i.e. victim relief benefits, to persons who suffered under the Nazi regime (also their widows/widowers, orphans, partners and parents may be entitled to these benefits). In order to be eligible, persons need to have been an Austrian citizen on 13 March 1938 and subject to bodily harms or serious disadvantages under the Nazi regime. Disadvantages may be due to active resistance against the regime or due to the political beliefs, religion, or physical disabilities within the period between 6 March 1933 and 9 May 1945, for instance if the persons had to wear a Jewish badge<sup>46</sup> (*Judenstern*).<sup>47</sup>

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<sup>43</sup>The supplementary pension, *Ausgleichszulage*, however, cannot be exported.

<sup>44</sup>Bundesministerium für Europa, Integration und Äußeres (2019). Life Certificate. <https://www.bmeia.gv.at/en/travel-stay/living-abroad/documents-civil-status-family/life-certificate/>. Accessed 24 February 2019; Pensionsversicherungsanstalt (2018). *Lebensbestätigung*. <http://www.pensionsversicherung.at/portal27/pvaportal/content/contentWindow?contentid=10007.707694&action=2>. Accessed 24 February 2019.

<sup>45</sup>Pensionsversicherungsanstalt (2019). *Information für im Ausland lebende Pensionisten und Pensionistinnen*. Wien: Pensionsversicherungsanstalt.

<sup>46</sup>The Jewish badge (*Judenstern*) was the badge that Jews had to wear under the Nazi regime.

<sup>47</sup>Österreichische Botschaft Washington (2019). *Pension & Sozialangelegenheiten*. <http://botschaft.austria.org/pensionen-soziales/>. Accessed 24 February 2019.

### 2.3.4 *Family-Related Benefits*

In general, in order to draw Austrian family benefits, one's "centre of interest" (*Mittelpunkt der Lebensinteressen*) has to be in Austria, implying for instance that the main residence of a person is in Austria (cf. § 2 *Familienlastenausgleichsgesetz*).<sup>48</sup> This excludes Austrians abroad from the entitlement to family benefits. Also, besides the agreement with Israel, bilateral social security agreements signed by Austria do not include provisions on family benefits. Yet, it should be noted that a small supplementary child benefit (*Kinderzuschuss*) can be received by persons who draw an Austrian pension for every child under the age of 18.<sup>49</sup>

With regards to family-related administrative services, Austrian representations can issue a birth certificate provided that the necessary data is already recorded in the central civil registry (*Zentrales Personenstandsregister*). To do so, Austrians abroad need to fill out the respective form (available online), bring it to the representation and prove their identity.<sup>50</sup>

### 2.3.5 *Economic Hardship*

The general minimum welfare scheme for Austrians, minimum subsistence benefits (*Bedarfsorientierte Mindestsicherung*) as well as the supplementary pension (*Ausgleichszulage*) for pensioners, cannot be exported. However, there is a special fund for Austrians abroad in cases of financial hardship, the Fund for the Support of Austrian Citizens Abroad (*Auslandsösterreicher-Fonds*), to which both the FMEIA and the regions of Austria contribute to. Austrians abroad who find themselves in serious difficulties can apply for support out of the Fund. The assistance can be granted once or periodically depending upon whether the person faces a temporary emergency or permanent financial hardship. It is considered as a form of supplementary assistance, as an equivalent to the means-tested social benefits in Austria.

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<sup>48</sup> *Bundesministerium für Frauen, Familien und Jugend* (2019). *Anspruchsvoraussetzungen für die Familienbeihilfe*. <https://www.bmfj.gv.at/familie/finanzielle-unterstuetzungen/familienbeihilfe0/anspruchsvoraussetzung.html>. Accessed 24 February 2019.

<sup>49</sup> This supplementary benefit amounts to 29.07€ in 2019; *Bundesministerium Digitalisierung und Wirtschaftsstandort* (2019). *Kinderzuschuss bei Alters-, Berufsunfähigkeits-, Invaliditäts- und Erwerbsunfähigkeitspension*. <https://www.help.gv.at/Portal.Node/hlpd/public/content/27/Seite.270223.html>. Accessed 24 February 2019; *Pensionsversicherungsanstalt* (2019). *Information für im Ausland lebende Pensionisten und Pensionistinnen*. Wien: Pensionsversicherungsanstalt.

<sup>50</sup> *Bundesministerium Digitalisierung und Wirtschaftsstandort* (2019). *Neuausstellung einer Geburtsurkunde oder internationalen Geburtsurkunde*. <https://www.help.gv.at/Portal.Node/hlpd/public/content/8/Seite.085100.html#ZustaendigeStellen>. Accessed 24 February 2019.



The fund was established against the background of the Second World War and its related expulsions when many Austrians left respectively had to leave Austria settling also in countries which do not have a social system comparable to Austria – where, for instance, pensions are smaller. Since 2007, also “Austrians at heart”, i.e. former Austrian nationals or their children, can become eligible for the Fund. This reform sought to assist persons who, de facto, lost their Austrian citizenship because they had to adopt the nationality of the country of residence, or those who had to leave Austria under the Nazi regime.

In order to receive assistance, Austrians abroad need to file an application, in which they describe their individual situation of hardship, with the relevant Austrian representation. The application is, in a first step, assessed by employees of the relevant representation, because they can speak the language and know about the specific living conditions in the country and can thus determine whether the applicant actually faces a situation of hardship. In case the Austrian representation considers the applicant as eligible, the case is, in a second step, sent to the FMEIA respectively the Fund which assesses it again. The assistance is only granted if the person does neither have enough own income or assets that can be exploited nor funding by relatives who are obliged to support the person in terms of living costs. There is no obligation for reimbursement.<sup>51</sup> In total, around 600,000 € were paid out per year between 2015 and 2017.<sup>52</sup> According to the response to a query of Members of Parliament from 2012, the money provided by the FMEIA and the regions of Austria was sufficient in order to support all persons who applied for help and who met the criteria.<sup>53</sup> In general, the share of Austrians abroad who (have to) make use of the financial support is small: out of 565,000 Austrians living abroad, only around 1100 persons receive assistance out of the fund.<sup>54</sup>

Besides the Fund, the FMEIA also has an annual Christmas campaign for Austrians abroad in need: every December, it collects money and in-kind donations

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<sup>51</sup> *Bundesministerium für Europa, Integration und Äußeres* (2019). Fund for the Support of Austrian Citizens Abroad. <https://www.bmeia.gv.at/en/travel-stay/living-abroad/meeting-point-austrians-abroad/fund-for-the-support-of-austrian-citizens-abroad/>. Accessed 24 February 2019; *Bundesministerium für Europa, Integration und Äußeres* (2019). *Auslandsösterreicher-Fonds (AÖF). Richtlinien für die Zuwendungen*. [https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Reise\\_Aufenthalt/AOE\\_Fonds\\_Zuwendungsrichtlinien.pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Reise_Aufenthalt/AOE_Fonds_Zuwendungsrichtlinien.pdf). Accessed 24 February 2019.

<sup>52</sup> *Bundesministerium für Finanzen* (2018). *Unterstützung bedürftiger österreichischer Staatsbürger im Ausland (Auslandsösterreicher Fonds)*. <https://transparenzportal.gv.at/tdb/tp/leistung/1005164.html>. Accessed 24 February 2019.

<sup>53</sup> *Nationalrat* (2012). 9977/AB XXIV. *GP – Anfragebeantwortung*. [https://www.parlament.gv.at/PAKT/VHG/XXIV/AB/AB\\_09977/imfname\\_242865.pdf](https://www.parlament.gv.at/PAKT/VHG/XXIV/AB/AB_09977/imfname_242865.pdf). Accessed 24 February 2019.

<sup>54</sup> This number is confirmed by the FMEIA in March 2019. *Bundesministerium für europäische und internationale Angelegenheiten* (2010). *Außenpolitischer Bericht 2009. Bericht des Bundesministers für europäische und internationale Angelegenheiten*. Wien: *Bundesministerium für europäische und internationale Angelegenheiten*, p. 176.

for Austrians abroad.<sup>55</sup> These donations are distributed amongst Austrians abroad according to the personal situation of the latter and the specific conditions of the country of residence – based upon information of the Austrian missions. In exceptional cases, also the regions grant financial assistance to Austrians abroad who face financial difficulties. This is regulated by the relevant departments of the regional governments.<sup>56</sup>

## 2.4 Conclusions

The chapter on Austria demonstrated that in particular the special history of Austria and dominant interests of Austrians abroad can explain Austrian diaspora policies and social protection. In this final section, the principles of Austrian diaspora policies and social protection, as elaborated upon in the precedent sections, will be summed up again.

In general, Austrian diaspora policies are characterized by the principle of “help for self-help” and the link to Austria(n culture). Austria has undertaken a range of steps in order to make it easier for Austrians abroad to interact with Austrian authorities and to receive documents abroad. Documents such as passports, birth certificates or life certificates can be issued respectively certified by the relevant Austrian representation. Moreover, Austrians abroad can enter into contact with authorities online or even via the mobile phone signature within the EU. Furthermore, the link to Austria and Austrian culture has a high priority as the existence of the *Kulturforen* and the missions of the associations abroad demonstrate. Austrian representations seek to help and assist Austrians abroad, yet, the latter do for instance not have any legal entitlements to financial assistance.

The voting rights of Austrians abroad have been extended and the latter can nowadays cast a ballot in all national and some regional elections. This extension can be explained by the pressure via the Worldwide Association of Austrian Associations Abroad. Yet, the Worldwide Association of Austrian Associations Abroad described these achievements as a “long road” (Chlestil 2013). Austrians abroad are furthermore pushing for citizenship matters such as an extended possibility of dual citizenship, but less successfully.

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<sup>55</sup> *Bundesministerium für Europa, Integration und Äußeres* (2015). *Außen- und Europapolitischer Bericht 2015*. [https://www.bmeia.gv.at/fileadmin/user\\_upload/Zentrale/Publikationen/AEPB/Aussen\\_und\\_Europapolitischer\\_Bericht\\_2015.pdf](https://www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Publikationen/AEPB/Aussen_und_Europapolitischer_Bericht_2015.pdf). Accessed 24 February 2019.

<sup>56</sup> *Rechnungshof* (2011). *Bericht des Rechnungshofes. Auslandsösterreicher-Fonds*. [http://www.rechnungshof.gv.at/fileadmin/downloads/2011/berichte/teilberichte/bund/bund\\_2011\\_11/Bund\\_2011\\_11\\_4.pdf](http://www.rechnungshof.gv.at/fileadmin/downloads/2011/berichte/teilberichte/bund/bund_2011_11/Bund_2011_11_4.pdf). Accessed 24 February 2019.

In terms of social security, beyond the extensive EU framework, the agreements between Austria and other countries mostly apply to pensions and the calculation of insurance periods. Only few agreements contain further rules, for instance on unemployment benefits. Home country institutions provide information and help establishing contacts such as doctors, solicitors or hospitals, and thus enable “help for self-help”. In situations of economic hardship and exceptional circumstances, however, Austria takes further action. For Austrians abroad, Austria has special protection programmes: first and foremost, those who face serious financial difficulties can apply for (one-time or regular) support out the Fund for the Support of Austrian Citizens Abroad. Seriously ill or old Austrians abroad who can no longer provide for themselves can be brought into a hospital respectively an old persons’ home in Austria. Austria thus seeks to guarantee a certain minimum living standard for its nationals abroad. These special social protection policies have to be understood in the light of Austrian history, the Austrian *Anschluss* and the Second World War, as a compensation for people who suffered under the Nazi regime.

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# Chapter 3

## Diaspora Policies, Consular Services and Social Protection for Belgian Citizens Abroad



Jérémy Mandin

### 3.1 Introduction

The question of emigration and – more generally – of the situation of Belgian citizens living abroad occupies a specific place in the public space in Belgium. On the one hand, the figure of the Belgian emigrant, often described as an ‘expat’, is generally perceived positively and moving abroad is often depicted as a positive experience. This idea is reflected in many media productions, the most illustrative being maybe the weekly radio broadcast Belgians from the Other Side of the World (*Les Belges du Bout du Monde*) programed on the French-speaking Belgian public radio. On the other hand, beside this positive depiction of emigration, little media attention has been given to the lived reality of Belgian citizens abroad and even more limited salience to the policies targeting this specific population. At the same time, questions related to the social protection of citizens abroad seem to be a rather secondary topic in the Belgian political agenda, being largely absent of the everyday political debate. This chapter addresses the engagement of the Belgian state with its population abroad, with a special focus on policies targeting social protection issues.

The first part of the chapter will explore how the question of the Belgian population abroad has been institutionalized in Belgium. It will demonstrate how this institutionalisation is strongly linked to the process of federalisation that unfolded in Belgium, with each sub-national entity (or community) developing specific programs of international relations in various fields. Moreover, in response to the lack of public institutions dedicated to the support of the Belgian diaspora, Belgian citizens abroad have also organized themselves by creating associations that were

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historically built along ethnic lines of division between Flemish and Walloons. The second part of the chapter focuses on the policies of social protection that the Belgian state implemented in order to respond to the needs of its population abroad. It will describe the main characteristics of these policies. Beyond the provision of information and the signature of bilateral agreements that are two core components of the Belgian policy to support its citizens abroad, this part also addresses the Belgian Overseas Social Security (OSS) system that allows citizens living outside the European Economic Area (EEA) to access social security insurance schemes provided by the Belgian authorities. This specific program of social security was largely inherited from the Belgian colonial history and, in particular, from the problematics encountered by Belgian workers after the independence of Congo.

## 3.2 Diaspora Characteristics and Home Country Engagement

### 3.2.1 *Belgian Emigration as a ‘Forgotten History’*

Emigration has been an important phenomenon in Belgium. During most of the nineteenth century and the beginning of the 20th, Belgium was a country of emigration. The number of people leaving the country exceeded the number of immigrants. During the second half of the nineteenth century, for example, many Belgians moved to Northern France to work in the textile and coal industries (Stengers 2004), fleeing difficult life conditions and scarce job opportunities at home. At the same period, more limited emigration movements were also oriented towards more distant destinations such as the United States (US), Brazil or Argentina (Stengers 2004), but also Canada (Jaenen 2011). Finally, during the Belgian colonial domination of Congo and despite the fact that the circulation between the metropole and the colony was strictly controlled by the Belgian colonial power, Belgians moved to this country (Stanard 2014). When compared with this rich history of emigration, it appears that the status of Belgium as an ‘immigration country’ (i.e. a country where immigration flows durably exceed emigration flows) is a rather recent development.

Emigration is still a significant phenomenon in Belgium. In July 2018, 471,401 Belgians were registered abroad, mainly in France (132,557), the Netherlands (38,824), Spain (28,947), the United Kingdom (28,293) and Germany (28,008).<sup>1</sup> According to the data of the Belgian General Directorate for Statistics, in the recent decades, the evolution of the emigration of Belgian citizens – while not linear – seems to be characterized by a relative growth. With around 20,000 emigrants per

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<sup>1</sup> Source: *Direction Générale des Affaires Consulaires*. These numbers are the numbers of Belgian citizens registered in the consular offices abroad. Registration with the consulates is highly recommended, but not mandatory. Thus, it is very likely that these figures underestimate the real numbers of Belgians living abroad.

year during the 1980s and in the first half of the 1990s, the emigration of Belgian citizens reached a pick in 2008 with 47,868 people leaving the country. After a decrease in 2010 (partially explained by a new method of measuring emigrations) with 31,261 Belgians emigrating from Belgium, the outflows started to increase again during the 2010s. In 2017, the number of emigration was 37,557.<sup>2</sup>

Despite this, most of the public and political attention in Belgium is focused on the immigration phenomena rather than emigration. In many ways, the history of Belgian emigration can be considered as a “forgotten history” (Morelli 1998). Regarding contemporary emigration phenomena, the question of outward migrations and the issue of the relation with the Belgian community abroad are rarely addressed, without being a top priority in the national political agenda.

### 3.2.2 *The Diaspora Infrastructure of Belgium*

At the federal level, the key institution in charge of the questions related to Belgians abroad is the Federal Public Service for Foreign Affairs, External Trade and Development Cooperation (*Service Public Fédéral Affaires Etrangères, Commerce Extérieur et Coopération au Développement*- SPF Foreign Affairs). Its missions include the “assistance to the Belgian living abroad and their protection”.<sup>3</sup> Within SPF Foreign Affairs, two services can intervene in the assistance of Belgians abroad. In case of crisis that potentially involves a large number of Belgian citizens, the Foreign Affairs Crisis Centre (*Centre de Crise des Affaires Etrangères*) is responsible. For individual cases, the responsible institution is the Directorate General for Consular Affairs (*Direction Générale des Affaires Consulaires*) which regroups a number of services divided between four directorates:

- The Directorate “Emergency assistance and judiciary affairs” regroups the services “Assistance to Belgians abroad”, “International judiciary cooperation” and “European consular cooperation”;
- The Directorate “Travel and Identity documents” regroups the services “Logistic and international norms”, “Individual files and national regulation” and “Monitoring”;
- The Directorate “People’s rights” regroups the services “Nationality”, “Family rights and civil status”, “Notary”, “Population and electoral affairs”, “Regulation and document related anti-fraud measures”;
- The Directorate “Visas” regroups the services “Regulation”, “Individual files” and “Monitoring”.<sup>4</sup>

<sup>2</sup>Statbel (2018). *Migrations internationales des Belges*. <https://statbel.fgov.be/fr/themes/population/migrations#figures>. Accessed 25 February 2019.

<sup>3</sup>*Service Public Fédéral Affaires Etrangères, Commerce Extérieur et Coopération au développement, contrat d’administration 2016–2018*. [https://diplomatie.belgium.be/fr/sur\\_lorganisation/mission\\_et\\_objectifs](https://diplomatie.belgium.be/fr/sur_lorganisation/mission_et_objectifs). Accessed 25 February 2019.

<sup>4</sup>See: [https://diplomatie.belgium.be/fr/sur\\_lorganisation/organigramme\\_et\\_structure/c](https://diplomatie.belgium.be/fr/sur_lorganisation/organigramme_et_structure/c). Accessed 25 February 2019.

Belgium has embassies and consulates in around 80 countries in the world. Its diplomatic missions abroad also include honorary consulates. Honorary consuls are generally recruited within the local population to provide Belgians abroad with a contact person in regions where consulates or embassies are not present. Honorary consuls are not required to have the Belgian citizenship and they do not always speak one of the official languages in Belgium. Their role may vary from one country to the other, depending of the context and of the needs of the main consulate. Honorary consuls have limited competences. For example, they cannot deliver emergency travel documents or visas. Their basic role includes providing support to Belgians in difficulty, collecting applications for ID cards and passports, communicating these applications to the consulate and issuing the documents at the end of the process.

The diaspora infrastructure of Belgium has also been affected by the process of federalisation that unfolded in the country. Because Belgium is a federal state, a number of competences have been transferred to different federal entities: three communities (the French community also known as the Wallonia-Brussels Federation, the Flemish community and the German-speaking community) and three regions (the Flemish region, the Wallonia region and Brussel-capital region). The communities, for example, are responsible for matters related to culture, education, youth policy or scientific research, among others. Regions are competent in matters related to the economy, employment, agriculture, housing, energy, transportation, environment, international trade, etc. An important element is that the different entities are also responsible for the international relations related to the aforementioned competences, which gives them a significant space for developing their own initiatives abroad. In this context, the different communities created institutions that are dedicated to the development of international relations. The Wallonia-Brussels Federation created the Wallonia-Brussels International (*Wallonie-Bruxelles International*, WBI), an institution in charge of the international relations of Wallonia and Brussels. Flanders has its own department for Foreign Affairs (*Departement Buitenlandse Zaken*). Both the Flemish community and the Wallonia-Brussels Federation developed their own network of delegations around the world.<sup>5</sup> Even if the support of Belgians abroad is not the priority of such institutions, they often provide programs that include the promotion or the support of specific forms of emigration. For example, WBI provide incentives for people who want to move abroad in order to gain professional experience or to access specific education or training. Very often, this support aims at temporary forms of emigration and suppose the return of the emigrants in Belgium.

Broadly speaking, the two communities seem to engage in different ways with Belgian citizens abroad. Flanders seems more active than the Wallonia-Brussels Federation in securing socio-cultural links with its diaspora abroad. For example, the Flemish Government signed a bilateral convention with the Netherlands to facilitate the access of Flemish people to Dutch schools abroad.<sup>6</sup>

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<sup>5</sup> See: <http://www.federation-wallonie-bruxelles.be/index.php?id=90> and <https://www.fdfa.be/en/home>. Accessed 25 February 2019.

<sup>6</sup> Convention of 30th of May 2016, also known as Ladies' Agreement (*Damesakkoord*), renewing a 1991 Convention known as Gentlemen's Agreement (*Herenakkoord*).



Outside of the public institutions, the Belgian diaspora was also active in organizing itself in order to compensate for the lack of state-based support in different domains. Given the fact that – beyond the case of consular assistance – no governmental institution was created to engage with Belgians abroad, these two associations are crucial parts of the institutional framework through which non-resident Belgian citizens are represented in Belgium.

Historically, the Belgian diaspora has been organized along the ethnic lines of divisions that characterize the recent history of Belgium. In 1963, the association Belgians in the World (*Belgie in de Wereld*, BIW) was created to defend the interests of Flemish abroad and to promote the Flemish culture worldwide. First, this association was open to French-speaking Belgian emigrants but rapidly, the latter were encouraged to found their own structure. In 1967, the association Belgium in the World (*Belgique dans le monde*, BDM) was created (Lafleur 2013). The two associations evolved and became the Flemish in Worlds (*Vlamingen in de Wereld*, VIW) for the Flemish part and Francophone Union of Belgians Abroad (*Union Francophone des Belges à l'Étranger* or UFBE) for the French speaking part.

These two associations are nowadays, the two main organisations that promote the interests of Belgians abroad. Progressively, the regional institutions started to support these two associations. VIW receives funding from the Flemish Ministry of External Relations, while UFBE is supported by Walloon authorities and the main political parties are represented in the board of directors (Lafleur 2013).

The two associations are characterized by different logics of action. UFBE's activity is mainly oriented towards providing information and counselling for Belgians abroad, in particular regarding their relations with the Belgian tax system, social security, pension system and health insurance.<sup>7</sup> The association also publishes a newspaper that includes information regarding the political news of Belgium and the European Union (EU), as well as information regarding the life of Belgians abroad. The website of the association also provides the contacts of delegates in the different countries of destination. The delegates' function is to act as contact persons for Belgians abroad who need information. VIW also provides information to Belgians abroad on a range of topic including pensions, taxation and social security, as well as a network of contacts in destination countries.<sup>8</sup> It also publishes a magazine. However, VIW also functions as a tool to promote the regional (in this case, Flemish) culture and identity abroad, a function that is much less present in the case of UFBE. Finally, both associations occasionally act as lobbies to demand political reforms in areas such as citizenship, voting rights or taxations on issues that concerns specifically the Belgian population abroad.

As mentioned above, questions related to emigration and the Belgian population abroad are not key topics in the Belgian political agenda. However, some political parties started to engage with these topics as illustrated in some occasions. First, during recent election campaigns, many parties included points of interest for

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<sup>7</sup> <https://www.ufbe.be/index.php/qui-sommes-nous>. Accessed 25 February 2019.

<sup>8</sup> <https://viw.be/nl/about-foundation-flemings-world>. Accessed 25 February 2019.

Belgians abroad in their electoral program.<sup>9</sup> In these programs, Belgians living abroad were never labelled as “migrants” or “emigrants”. In fact, the lexical field of “migration” was never used when it comes to label Belgian citizens living abroad. Other terms such as “Belgians of the world” or “Belgians abroad” were used instead. This illustrates the strict symbolic distinction that exists in the Belgium public sphere between Belgian emigrants and other migrant populations, such as immigrants from countries of the South. A second element is the creation, within some political parties, of specific organisations in charge of dealing with topics related to Belgians abroad. For example, the French-speaking right-wing *Mouvement Réformateur* (MR) created a Facebook page called MRI (For MR International) in which practical information and international news are posted for Belgians abroad. Another example is the Christian Democratic Centre (*Centre Démocrate Chrétien*, CDH) which has its own International Space (*Espace International*) whose stated missions are to keep in touch with Belgian expatriates, defend their interests, inform them about matters that affect them directly or indirectly and keep a strong link with the life of the party.<sup>10</sup>

### 3.2.3 Key Engagement Policies

In Belgium, a Consular Code (*Code Consulaire*) was created by a law of 21st of December 2013 published in the *Moniteur Belge* on 21st of January 2014. The Consular Code regroups the principles that guide the missions of Belgian representations abroad, as well as the regulations related to the consular competences regarding civil registry, notary activities, nationality, etc.<sup>11</sup> Until recently, however, the Code did not mention the services that Belgian representations had to provide. The law of 9 May 2018 added several articles to the Consular Code. Among these, Article 78 describes the situations in which Belgian representations abroad are competent to provide assistance. The types of services provided by consulates are listed in the Consular Code. Article 78 added by the 2018 law states that consular assistance is granted in case of: death of a Belgian citizen; serious accident happening to

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<sup>9</sup> See, for example: the program of the Socialist Party (*Parti Socialiste*, PS) for the 2014 federal, regional and European Parliament elections (*Plus forts ensemble. Pour un avenir plus juste. Programme 2014, élections européennes, fédérales et régionales*); the 2014 program of *Mouvement Réformateur* (MR – centre right) (*Programme général. Elections régionales, fédérales et européennes*) or the program of the Flemish nationalist party NVA in 2014 (*Vooruitgang Verkiezingsprogramma Vlaamse, federale en Europese verkiezingen 25 mei 2014*).

<sup>10</sup> See: <http://www.lecdh.be/le-parti/les-associations/lespace-international>. Accessed 25 February 2019.

<sup>11</sup> For the different types of competences, see the law as published in the *Moniteur Belge* (pp.7 and sq.): [http://www.ejustice.just.fgov.be/cgi\\_loi/loi\\_a.pl?=&sql=\(text+contains+\(%27%27\)\)&rech=1&language=fr&tri=dd+AS+RANK&numero=1&table\\_name=loi&F=&cn=2013122152&caller=image\\_a1&fromtab=loi&la=F&pdf\\_page=7&pdf\\_file=http://www.ejustice.just.fgov.be/mopdf/2014/01/21\\_2.pdf](http://www.ejustice.just.fgov.be/cgi_loi/loi_a.pl?=&sql=(text+contains+(%27%27))&rech=1&language=fr&tri=dd+AS+RANK&numero=1&table_name=loi&F=&cn=2013122152&caller=image_a1&fromtab=loi&la=F&pdf_page=7&pdf_file=http://www.ejustice.just.fgov.be/mopdf/2014/01/21_2.pdf). Accessed 25 February 2019.

Belgian citizens; serious crimes from which Belgian citizens are victims; suspect disappearances of Belgian citizens; arrest or detention of a Belgian national; situations of extreme distress for Belgian citizens; major consular crisis or international child abduction when the child and/or one of the parents are Belgian.<sup>12</sup>

The general philosophy guiding the consular assistance is that Belgian citizens asking for assistance should first try to find their own solutions to their problems. Following this principle, the first objective of consular assistance is to help Belgians abroad to be able to solve their problems by themselves. Regarding repatriation, for instance, a consulate can help a person to contact a family member or a friend in order to pay for a flight ticket back home. If no solution is found, consulates can provide an exceptional assistance and organize the repatriation. In such exceptional case, the person requiring assistance is asked to sign an acknowledgement of debt. In other words, consular assistance is considered as a repayable advance payment.

An important addition made by the law of 2018 is that consular assistance will not be provided to the Belgians who also hold the nationality of the country where the assistance is required when the consent of the local authorities is required.<sup>13</sup>

Beyond these cases of consular assistance, a major mode of engagement of the federal institutions with Belgians abroad is the provision of information regarding international mobility (the term “emigration” is never used). The website of SPF Foreign Affairs provides rich information and advice for people who are preparing to travel abroad, either temporarily or on a more permanent basis. It also gives information about the possibility to benefit from social security and pensions from abroad. Many consulates and embassies also maintain a Facebook page in which they communicate useful information to Belgians living abroad, as well as international and Belgian news or information about cultural events.

Regarding political rights, Belgians abroad are allowed to vote in home elections. This right can be exercised for two typed of elections: the federal legislative elections and the European Parliament elections held in Belgium. The conditions are: being of Belgian nationality, being aged 18 or more and not be denied the right to vote. In order to vote, they also have to register in their consulate population registry. When Belgians abroad register in the consulate, they receive a form that they can complete if they want to be registered as voters. For those who are already registered in the consulate population registry, they can ask for the voter registration form to their consulate. The form is also available online. They also have to register as voters by completing a form distributed at the consulate or downloaded online. Belgians abroad are also attributed a “municipality of attachment” in Belgium. For several years, Belgians abroad were allowed to choose the municipality of their choice which would then automatically determine the constituency in which their vote will be accounted for. This possibility, however, was a source of concern for Flemish party fearing that French-speaking Belgians abroad would choose to

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<sup>12</sup> *Moniteur Belge, Code consulaire*, <http://www.ejustice.just.fgov.be/eli/loi/2013/12/21/2014A15009/justel>

<sup>13</sup> See *Code Consulaire*, article 79.

register in highly-disputed bilingual constituencies to increase the weight of French-speaking voters (Lafleur 2008). The municipality of attachment is now determined as the last municipality of residence, or alternatively the city of birth, the city where the parents are registered, the city where the partner is or has been registered, the city where the parents up to the third degree is or has been registered, or, finally, the city of Brussels. Five voting modalities are offered to Belgians abroad: (1) in person in Belgium (in the city where the citizen is registered), (2) by proxy vote in Belgium, (3) in person at the consulate where the citizen is registered, (4) by proxy vote at the consulate, (5) by postal voting. Belgians abroad cannot stand as candidates for federal elections as one of the conditions for passive suffrage for these elections is for candidates to be registered in a Belgian municipality.

Belgians who are temporarily abroad during an election day can vote by proxy in national and sub-national elections. The impossibility to vote must be justified. A proof of absence or – if such a proof cannot be provided – a sworn statement has to be presented to the mayor of the municipality in which they reside in order to have the proxy vote authorized (Vintila et al. 2018, 7–8).

At the regional level, other policies have been developed regarding Belgians abroad. In the field of education, for example, the Flemish Government signed an agreement with the Netherlands allowing Flemish students to enrol in Dutch schools abroad (see above). Discussions about a similar agreement between the Wallonia-Brussels Federation and France are currently taking place, but no agreement has been signed yet.<sup>14</sup>

### 3.3 Diaspora Policies and Social Protection in Belgium

A major element of Belgium's policy regarding the social protection of its diaspora is the provision of information to citizens living (or planning to live) abroad. The website of SPF Foreign Affairs provides basic information about how to access Belgium social protection abroad. The website specifically focuses on pensions<sup>15</sup> and social security benefits,<sup>16</sup> for which it provides concise information and links to relevant websites. An important element of this information policy is the creation, in 2010, of an online tool on the website of the Belgian Social Security agency. This internet-based tool allows Belgian citizens to check what are their rights in terms of social benefits abroad. Users are directed to a webpage entitled *Leaving Belgium (Quitter la Belgique)*, where they are invited to provide information about their status: their nationality, the country of destination, their professional status, and the specific type of benefit they want information about. Once this information is

<sup>14</sup> Wallonie-Bruxelles International (2012). *Rapport d'activité 2012*.

<sup>15</sup> [https://diplomatie.belgium.be/fr/Services/services\\_a\\_letranger/pension](https://diplomatie.belgium.be/fr/Services/services_a_letranger/pension). Accessed 25 February 2019.

<sup>16</sup> [https://diplomatie.belgium.be/fr/Services/services\\_a\\_letranger/securete\\_sociale](https://diplomatie.belgium.be/fr/Services/services_a_letranger/securete_sociale). Accessed 25 February 2019.

uploaded, the website processes the data and provides the relevant information to the user.<sup>17</sup>

Beyond the provision of useful information to Belgian citizens abroad – and putting aside the EU regulations on social rights portability-, Belgium has also signed bilateral agreements addressing social security issues with several countries. In February 2019, 25 such agreements were in place. Some of them have been signed with the countries of origin of the largest immigrant workforce that Belgium recruited after World War II (Morocco, Turkey, Tunisia or Algeria, for example). Agreements have also been signed with Albania, Argentina, Australia, Bosnia, Brazil, Canada and Quebec, Chile, the Democratic Republic of Congo, South Korea, the United States, India, Israel, Japan, Kosovo, Macedonia, Moldavia, Montenegro, the Philippines, San Marino, Serbia and Uruguay.<sup>18</sup> While variations exist from one agreement to another, they are usually based on the principle of reciprocity and allow that periods of work in both countries are taken into account in the determination of certain benefits, primarily, but not exclusively, in the area of pensions<sup>19</sup> (see below).

Consular intervention is yet another way the Belgian state provides a form of protection to its citizens abroad. This protection – as far as social protection is involved – however is mainly conceived as exceptional, at least in the cases where the need for protection does not concern a situation of crisis involving a large number of citizens. As already mentioned, Belgians abroad are first asked to solve their problem by themselves, if necessary, with a marginal support from the consular authorities (to contact relatives in the home country, for example). If the person in question is unable to organize his/her own solutions, consular authorities can provide further support, but the beneficiary needs to sign an acknowledgment of debt. Regarding the case of the repatriation of corpses, if the deceased person did not have an insurance organizing the repatriation and if her/his family members cannot or do not want to pay for such repatriation, then the Belgian state will organize the funeral in the country where the person is deceased. In other words, no body repatriation service is offered.

Finally, regarding the specific domains of pensions, healthcare, and family related-benefits, Belgium created a program specifically aiming to provide social protection for people working abroad: the Overseas Social Security (*Sécurité sociale d'outre-mer*, OSS). This program is the cornerstone of Belgium's social protection policies for citizens residing outside the EU. It is designed for Belgian citizens who work in countries without bilateral social security agreements with Belgium or where the social security system is deficient. Belgian citizens living within the EEA cannot enrol in this program. OSS takes its origins in Belgium's colonial history in Congo and Ruanda-Urundi. Indeed, starting in 1942, all the “non-indigenous”

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<sup>17</sup>[https://www.socialsecurity.be/CMS/fr/leaving\\_belgium/index.html](https://www.socialsecurity.be/CMS/fr/leaving_belgium/index.html). Accessed 25 February 2019.

<sup>18</sup>[https://www.socialsecurity.be/CMS/fr/coming\\_to\\_belgium/FODSZ\\_Convention](https://www.socialsecurity.be/CMS/fr/coming_to_belgium/FODSZ_Convention). Accessed 25 February 2019.

<sup>19</sup>See, for example, the agreement with Morocco: [https://www.socialsecurity.be/CMS/fr/coming\\_to\\_belgium/convention/FODSZ\\_Convention\\_-Maroc](https://www.socialsecurity.be/CMS/fr/coming_to_belgium/convention/FODSZ_Convention_-Maroc). Accessed 25 February 2019.

workers employed in the Belgian colony had to register to the colonial system of social protection.<sup>20</sup> In 1960, after Congo's independence, the Belgian state faced two problems: it had to insure the continuity of the social protection of colonial workers whose careers have been interrupted by the independence and, additionally, it also had to provide social protection to European workers still employed in the region who could not access a performant social protection regime locally. To address these issues, the Office for Overseas Social Security (*Office de Sécurité Sociale d'Outre-Mer*, OSSOM) was created by the law of 17 July 1963. Article 1 of this law stipulates that OSSOM brings together four institutions: the Fund for Pensions and Family Benefit of the Workers of Belgian Congo and Ruanda-Urundi; the Fund of Benefits for the Workers of the Belgian Congo and Ruanda-Urundi; the Special Fund for Benefits and the Fund for Disability of the Workers of Belgian Congo and Ruanda-Urundi. If the need to insure a form of continuity after the colonial system of social protection appears as the main argument for the creation of OSSOM,<sup>21</sup> its field of application is not limited to the former colony anymore. The OSSOM social protection program was designed to provide forms of social protection to Belgian citizens living in countries with limited welfare infrastructures. Since its creation, OSSOM has been characterized by various reforms and is now named OSS. OSS is currently a service integrated within the Belgian National Office of Social Security (ONSS). Different dimensions of this social protection system will be discussed in the following paragraphs.

### 3.3.1 Unemployment

When it comes to protection against unemployment, the general rule is that one needs to reside in Belgium in order to access unemployment benefits offered by the Belgian state. In accordance with EU legislation, an exception is possible for those looking for a job in another EU Member State. In this case, and under certain conditions, the benefits can be received from abroad for 3 months (with possible extension). Next to the EU framework, Belgium does not offer financial protection against unemployment to its citizens abroad and the OSS scheme does not offer insurance against unemployment. Here again, information is the main form of support that Belgium provides to its emigrants, mainly through the website of the Belgian social security agency.

Some institutions, while not providing direct protection against unemployment, still provide some support regarding the job integration of (aspiring) emigrants. For

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<sup>20</sup> OSSOM (2014). *Rapport Annuel 2014*. OSSOM.

<sup>21</sup> See, for example, the arguments developed in the Report produced by the Commission for Foreign Trade and Technical Assistance of the Belgian House of Representatives in May 1963: *Chambre des Représentants* (1963). *Projet de Loi concernant la sécurité sociale d'outre-mer. Rapport fait au nom de la commission du commerce extérieur et de l'assistance Technique*. 38e Législature. Document 431/7.

example, at a regional level, the employment agencies of Wallonia (FOREM), Flanders (VDAB) and Brussels (ACTIRIS) regularly organize information sessions for Belgians who want to emigrate. Some of these sessions are focused on specific destinations and are often organized in collaboration with the authorities of the destination countries. The sessions typically provide information about foreign job markets, foreign job cultures and practical advices on how to find a job abroad.

### 3.3.2 Health Care

For Belgian citizens who move within the EEA, access to healthcare is regulated by EU legislation, while others can access the OSS program mentioned above. The program is separated from the general Belgian social security system. The OSS scheme covers different areas of social protection, including pensions, sickness, disability, maternity and medical insurance. The institution in charge of this scheme is ONSS. The user can choose the basic regime that covers a pension insurance, an insurance covering sickness, invalidity and maternity, and an insurance for medical care. The scheme also proposes complementary contracts covering work-related accidents and private accidents.<sup>22</sup> The health insurance of the basic regime allows the person insured to receive a compensation when she/he is temporarily unable to work due to sickness, maternity leave or accidents. The insurance for medical care of the general scheme is a differed insurance (*Assurance différée des soins de santé*). It reimburses the medical expenses of the beneficiary who contributed to the scheme for at least 16 years.<sup>23</sup> Belgians abroad can benefit from immediate reimbursement if they sign an additional healthcare contract (*Contrats Soins de Santé*). The additional insurance covers part of the costs (75%) for medical care, hospital care, childbirth, physiotherapy (based on what is recognized by the Belgian legislation), orthodontic treatment, malaria (*paludisme*) treatment, vaccines, eyeglasses and ambulance transportation.<sup>24</sup> In September 2018, the monthly contribution for the basic regime was comprised between a minimum of 324.60 and a maximum of 1973.89 euros. The amount of the benefits depend on the contribution that the

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<sup>22</sup>[https://www.international.socialsecurity.be/social\\_security\\_overseas/fr/assurances/regime-general/quest-ce-que-regime-general.html](https://www.international.socialsecurity.be/social_security_overseas/fr/assurances/regime-general/quest-ce-que-regime-general.html). Accessed 25 February 2019.

<sup>23</sup>Age conditions also apply depending of the number of years of contribution: 57 years old for 16 years of contribution, 56 years old for 18 years of contribution, 55 years old for 20 years of contribution, all the way to the minimum age: 50 years old for 30 years of contribution. See: [https://www.international.socialsecurity.be/social\\_security\\_overseas/fr/assurances/regime-general/assurance-differee-soin-de-sante.html](https://www.international.socialsecurity.be/social_security_overseas/fr/assurances/regime-general/assurance-differee-soin-de-sante.html). Accessed 25 February 2019.

<sup>24</sup>This concerns the case of medical care in the destination country: see: [https://www.international.socialsecurity.be/social\\_security\\_overseas/fr/assurances/contrats-complementaires/contrats-soins-de-sante.html](https://www.international.socialsecurity.be/social_security_overseas/fr/assurances/contrats-complementaires/contrats-soins-de-sante.html). Accessed 25 February 2019.

beneficiary chooses to pay (especially for pensions). The monthly contribution for the additional healthcare insurance contract was 146.78 euros.<sup>25</sup>

Next to OSS, SPF Foreign Affairs provides limited support in the area of healthcare. In case of accidents or serious illness, Belgian consulates can give advices about local doctors and hospitals with good standards as they usually keep a list of different specialist – among whom doctors – that Belgians abroad can contact in case of need.<sup>26</sup>

### 3.3.3 Pensions

As for healthcare, in the case of Belgian citizens who move within the EU, their right to access pensions and have these pensions paid abroad is mostly regulated by EU legislation. Belgians residing outside the EU can rely on the many bilateral agreements that Belgium signed and which allow that periods of activity in Belgium can be added to the period of activity in the country of destination for pension calculation. In addition to the general pension scheme, Belgians abroad have also access the OSS scheme described above. The basic regime of the OSS scheme includes a pension insurance working as a differed benefit insurance. In this sense, the OSS system is different from the Belgian pension system that is a repartition system (those who work pay for the elders). In the Belgian system, the amount of the pension benefits are based on criteria such as the person's past salaries and his/her family situation. Overseas pension scheme is based on a system of capitalisation. The amount of the pension benefit depends on the contributions paid by the beneficiary, the age at which the contribution was paid, the duration of the participation to the insurance scheme and the age at which the pension started.

The website of SPF Foreign Affairs provides information on how to access pensions from abroad, mainly by providing the relevant web links.

The authority that Belgians abroad need to contact to receive a pension depend of the country of residence. If the country is an EEA country, Switzerland, or a country with which Belgium signed a bilateral agreement regarding social security, the competent authority is the authority of the country of residence. If the country is a country with which Belgium did not sign an agreement, Belgians abroad need to contact the Pensions Federal Service (*Service Federal des Pensions*) or the National Institute of Social Insurance for Independent Workers (*Institut National d'Assurances Sociales pour Travailleurs Indépendants*) in Belgium. Some bilateral agreements such as the one with Morocco – signed in February 2014 – stipulates that Belgian and Moroccan citizens who worked in Belgium and spend their pension in Morocco

<sup>25</sup> [https://www.international.socialsecurity.be/social\\_security\\_overseas/fr/assurances/contrats-complemen-taires/contrats-soins-de-sante.html](https://www.international.socialsecurity.be/social_security_overseas/fr/assurances/contrats-complemen-taires/contrats-soins-de-sante.html). Accessed 25 February 2019.

<sup>26</sup> See, for example: *Ambassade et Consulat de Belgique en Italie*. 2018. *Bienvenu en Italie! Guide pratique des formalités à accomplir pour qui s'établit en Italie*. <https://italy.diplomatie.belgium.be/fr/services-consulaires/guide-premiere-installation-en-italie-malte>. Accessed 25 February 2019.



have access to the Moroccan Health Insurance (AMO). The costs of the medical support is then reimbursed to AMO by the Belgian Health Insurance.<sup>27</sup>

To receive a Belgian pension, Belgians abroad need to provide a yearly life certificate (*certificat de vie*) signed by the consular authority and sent to the Belgian Pensions Federal Service. The person claiming a pension normally receives the template for the certificate every year, although the template is also available online. If the life certificate is not sent on time, the payment of the pension can be interrupted. Belgians who live in France, Germany or the Netherlands do not need to send the certificate. Indeed, an agreement on the electronic exchange of data between those countries has been concluded. This confirms that Belgium tends to put more emphasis on services offered in specific destination countries that concentrate the largest Belgian communities abroad.

### 3.3.4 Family-Related Benefits

The general principle to access family-related benefits (birth allowance and family allowance) is that parents need to be affiliated to the Belgian social security and to reside in Belgium. Exceptions are made, for example, when a person is a posted worker abroad (working abroad but still affiliated to the Belgian social security).

Some bilateral social security agreements that Belgium signed with non-EU countries include provisions on family benefits.<sup>28</sup> These agreements usually facilitate the access to family benefits for workers working in one of the signatory countries. By way of example, the agreement with Morocco states that the period of activity in Belgium or Morocco are taken into account for opening family benefits rights in the other country and that Moroccan workers in Belgium who have children in Morocco can receive family benefits from Belgium and vice versa.<sup>29</sup>

In other words, these agreements do not really allow Belgians abroad to benefit from their home country family benefits, but insure that family benefits provided by the country where they work can benefit their children living in Belgium. Originally, this measure was mainly designed to benefit the Moroccan citizens living and working in Belgium, but with the development of forms of return migrations and new patterns of transnational North/South mobility, the reciprocity of the agreement also benefits Belgian citizens living in Morocco.

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<sup>27</sup> [https://www.socialsecurity.be/CMS/fr/coming\\_to\\_belgium/convention/FODSZ\\_Convention\\_Maroc](https://www.socialsecurity.be/CMS/fr/coming_to_belgium/convention/FODSZ_Convention_Maroc). Accessed 25 February 2019.

<sup>28</sup> For the list of the agreements that include measure regarding family benefits, see: <http://wallonie.famifed.be/fr/familles/situation-de-lenfant/mon-enfant-r%C3%A9side-%C3%A0-l%C3%A9tranger>. Accessed 25 February 2019.

<sup>29</sup> *Convention générale sur la sécurité sociale entre le Royaume de Belgique et le Royaume du Maroc*, published in *Moniteur Belge* on 25 June 1971. [https://www.socialsecurity.be/CMS/fr/leaving\\_belgium/downloads/ff77f7f680185ec55456e6ec92c834a8](https://www.socialsecurity.be/CMS/fr/leaving_belgium/downloads/ff77f7f680185ec55456e6ec92c834a8). Accessed 25 February 2019.

In addition to the provisions of bilateral agreements, the OSS scheme presented above provides an insurance covering sickness, invalidity and maternity. It includes a financial compensation for a maternity leave of 15 weeks, which is equivalent to the maternity leave provided in Belgium. However, the OSS program does not include the birth allowance that is granted in Belgium.

Lastly, consulates' role regarding family benefits seems to be limited to providing information through their websites.

### 3.3.5 *Economic Hardship*

One of the condition to access the guaranteed minimum income scheme (*revenu d'intégration*) in Belgium is to reside in the country. Therefore, Belgians abroad cannot apply for such resources.

Belgian consulates' websites sometimes provide information about the social security system of destination countries, including information about local institutions in charge of the host country's guaranteed minimum resource scheme. With regard to direct financial assistance of the consulate, as discussed above, only exceptional loans can be offered to Belgian nationals in case of economic hardship.

## 3.4 Conclusions

Emigration and diaspora-related policies are not at the top of the political agenda at the federal level in Belgium. Despite a rich history of emigration, Belgium is characterized by a lack of state-related structures dedicated – at the federal level – to defending the interests of the Belgian diaspora. Historically, this role has been performed by Belgians emigrants themselves, through the creation of two associations built according to the ethnic lines of distinction that characterizes the contemporary socio-political life in Belgium.

Following the federalisation process and the transfer of competences from the federal level to the different sub-national entities, the Belgian communities gained more and more space for developing their own initiatives in terms of international relations. Both the Flemish and the Walloon communities developed their own institutions in order to organize these initiatives. In the context of a global economy where cities and regions are competing with each other, citizens abroad are sometimes perceived as valuable assets and are increasingly seen as a way to enhance the “human capital” of the different communities. The engagement with diaspora, however, differs in terms of intensity and goals from one community to another. Flemish institutions, for example, seem more active in securing socio-cultural ties with their diaspora than the French-speaking institutions that seem more interested in securing business-related links.

Regarding the specific field of social protection, the chapter examined the different ways in which Belgium intervenes in the area of welfare for its citizens abroad. As far as economic risks are concerned (unemployment, economic hardship), the engagement of Belgium toward its citizens abroad seems rather limited. The extension of the unemployment scheme to citizens abroad is very limited, no minimum income is accessible to them and consulates only provide financial assistance in exceptional circumstances if a commitment to reimburse is signed by the beneficiary. Regarding the other social protection areas addressed in this volume (health-care, pensions, family-related benefits), a specificity of the Belgian policy toward its diaspora is the existence of a social security program dedicated to Belgians living outside of the EEA: the OSS. Interestingly, this program is largely inherited from the colonial history of Belgium and, in particular, from the specific circumstances encountered by many Belgian workers after Congo's independence.

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# Chapter 4

## Diaspora Policies, Consular Services and Social Protection for Bulgarian Citizens Abroad



Zvezda Vankova

### 4.1 Introduction

This chapter demonstrates that the Bulgarian diaspora policy is characterized by inconsistent implementation and dissonant institutional context. It is intertwined with the country's migration policy which is focused, among other priorities, on attracting historic kin communities and Bulgarian emigrants, in order to overcome its demographic decline. Against this backdrop, the country lacks overall social protection policies towards Bulgarians abroad and prioritizes providing information rather than financial support. Firstly, the chapter presents the general institutional framework by which home country authorities interact with nationals abroad, as well as the main engagement policies with this population outside of the area of social protection. Secondly, the chapter focuses on how Bulgarian authorities currently respond to social protection needs of nationals abroad across five specific policy areas: unemployment, health care, pensions, family-related benefits and economic hardship.

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## 4.2 Diaspora Characteristics and Home Country Engagement

### 4.2.1 *The Bulgarian Diaspora and Its Relations with the Homeland*

The policy towards Bulgarians abroad is based on numerous legal and policy documents. The overarching ones are: the 2000 Law on the Bulgarians living outside the Republic of Bulgaria,<sup>1</sup> the 1998 Law on Bulgarian Citizenship<sup>2</sup> and the 2014 National Strategy for Bulgarian Citizens and Historic Bulgarian Communities. Relevant provisions can also be found in the 2015 National Strategy in the field of Migration, Asylum and Integration, as well as the 2012 National Demographic Development Strategy of the Republic of Bulgaria.

The 2000 Law on the Bulgarians living outside the Republic of Bulgaria defines this group as comprising those who have at least one relative of Bulgarian origin in their ascending line, possess Bulgarian national consciousness, and reside permanently on the territory of another state (Article 2).

The notion of “a person of Bulgarian origin” was defined in the 1991 Constitution<sup>3</sup> (Smilov and Jileva 2009, p. 223). Its Article 25 (2) referred to a facilitated naturalisation procedure for persons of Bulgarian origin, which was later reflected in Bulgaria’s citizenship legislation. The 1998 Act on Bulgarian Citizenship states that “a person of Bulgarian origin is one whose ascendants (or at least one of these) are Bulgarian” (§ 2 (1)). “Bulgarian” in this definition means a person whose origin is of Bulgarian “blood”, which indicates a link to an ethnic identity and not to a legal status (Smilov and Jileva 2009, p. 223).

The 2014 National Strategy for Bulgarian Citizens and Historic Bulgarian Communities further details the definition of “Bulgarians abroad”, which covers the Bulgarian diaspora as comprised by the “young” and “old” Bulgarian emigrant communities, as well as the “historic” Bulgarian communities abroad. The latter were formed as a result of emigration while Bulgaria was under Ottoman rule (1396–1878), as well as the Liberation of Bulgaria in 1878 which left Bulgarian population outside the new borders of the state (Strategy 2014). The Bulgarian diaspora was formed also through emigration motivated by economic needs during the late nineteenth and early twentieth centuries, migratory waves associated with the unsuccessful Balkan Wars (1912–1913) and World War I (1914–1918) (Yanev 2017a, p. 369). The Strategy has pinpointed such Bulgarian communities in Macedonia, Russia, Romania, Greece, Turkey, Serbia and the Western Balkans. In

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<sup>1</sup> *Закон за българите, живеещи извън Република България*. Promulgated in State Gazette (SG) No 30/11 April 2000, last amendment in SG No 58/26 July 2016.

<sup>2</sup> *Закон за българското гражданство*. Promulgated in SG No 136/1998; last amendment in SG No 77/18 September 2018.

<sup>3</sup> *Конституция на Република България*. Promulgated. in SG No 56/13 July 1991, last amendment in SG No 100/18 December 2015.

addition, the *gagauzi* in Moldova and Ukraine (referred to as *Bessarabian* Bulgarians) are also considered as part of these historic Bulgarian communities abroad. This group of Bulgarians abroad comprises persons with foreign or dual citizenship (Strategy 2014).

Emigration for political and economic reasons before and mainly after World War II, when a communist system was established in Bulgaria, formed the “old” Bulgarian emigrants’ communities located in countries in Central and Western Europe, the United States (USA), Canada and Australia. According to the 2014 Strategy, most of these people have kept their Bulgarian citizenship. Bulgaria’s transition to democracy after 1989 triggered additional emigration waves (the so-called “young” Bulgarian communities abroad) incentivized by career and educational opportunities abroad.

The 2014 Strategy estimates that around 3–3.5 million Bulgarians reside abroad, out of which around 2 million are considered to have Bulgarian citizenship. However, experts claim that this number is not based on statistical data analysis and that the real number of Bulgarians residing outside the country is close to 1.1 million (Angelov and Lessenski 2017, p. 9).<sup>4</sup> They live mainly in the European Union (EU) Member States (Spain, Greece, and Germany), Turkey and the USA. In any case, the fact that many Bulgarians who move abroad do not register their foreign address at the diplomatic representations or local authorities adds further difficulty to the attempt of estimating the exact size of the Bulgarian diaspora.

#### 4.2.2 *Diaspora Infrastructure*

The diaspora infrastructure in Bulgaria consists of various state institutions, including the vice-president of the country and one of the vice-prime ministers. Several ministries are also engaged in the policies towards Bulgarians abroad, namely the Ministry of Foreign Affairs, the Ministry of Labour and Social Policy, the Ministry of Education and Science, the Ministry of Culture and its Bulgarian Cultural Institutes Abroad, the Ministry of Justice (one of the institutions responsible for naturalisation procedures), the Ministry of Interior hosting the Secretariat of the National Migration Policy Council, and the Directorate of Religious Affairs at the Council of Ministers<sup>5</sup> (Strategy 2014). Finally, the institution in charge of the coordination of the policy implementation concerning Bulgarians abroad is the State Agency for Bulgarians Abroad.

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<sup>4</sup>This number is also close to the UN data, according to which Bulgarians living abroad amount to 1.2 million as of 2015 (Total international migrant stock; Table 16. Total migrant stock at mid-year by origin and by major area, region, country or area of destination, 2015 Accessed 16 December 2018 at <http://www.un.org/en/development/desa/population/migration/data/estimates2/estimates15.shtml>). On this topic, see also Christova 2017, p. 239.

<sup>5</sup>The religious policy towards Bulgarians abroad is outside the scope of this research. For more information, see Penchev et al. 2017.

Bulgaria has 83 diplomatic representations abroad (76 embassies, six permanent representations and one diplomatic bureau), 18 Consulates General, one consular office, and 86 honorary consular officers.<sup>6</sup> The honorary consular officers carry out their activity with the aim to stimulate development and bilateral economic, trade, cultural and scientific relations between Bulgaria and the respective country, in compliance with the functions determined by Article 5 of the Vienna Convention on consular relations.<sup>7</sup> They maintain regular contact with diaspora representatives, associations and other organizational structures in their consular district.<sup>8</sup> The honorary consul officers also have a role in the protection of Bulgarian citizens and legal entities in case of natural disasters, civil conflicts, transport accidents or terrorist acts. With explicit authorization, the honorary consular officers may also carry out limited consular services such as endorsement of signatures on private papers, acceptance of handwritten wills, endorsement of authorised translators' signatures on apostille documents.<sup>9</sup>

All Bulgarian citizens must be registered in the Population Register<sup>10</sup> and they are obliged to state in writing their permanent and current address.<sup>11</sup> The permanent address is always in Bulgaria. Those living abroad declare their current address in the state in which they reside before the municipalities at their permanent address or through the diplomatic or consular representations abroad.<sup>12</sup> Because this process is voluntary, many Bulgarians do not register their new address abroad (Hristova and Vankova *forthcoming*).

The State Agency for Bulgarians Abroad (*Държавна агенция за българите в чужбина*) is the main state body in charge of dealing with nationals abroad.<sup>13</sup> The Agency's aim is to establish and maintain contact with associations, societies, churches and schools of Bulgarian communities abroad and to support their activities in order to preserve the Bulgarian language, cultural and religious traditions (see Yanev 2017b, p. 83 for a detailed overview of activities implemented by the Agency throughout the years). As mentioned above, the Agency is the coordinating state body for the implementation of the policy towards Bulgarians abroad. It should be kept in mind, however, that the diaspora policy is scattered among numerous

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<sup>6</sup>Ministry of Foreign Affairs (2018). Diplomatic Representations. <https://mfa.bg/bg/news/4096>. Accessed 10 January 2019.

<sup>7</sup>See Article 5 of the Ordinance for the order of appointing and accepting honorary (not regularly appointed) consular officers. Promulgated in SG 114/30 December 2003, amended in SG No 72/29 August 2014.

<sup>8</sup>Article 12 (6) of the Implementing instruction No 1/2007 of the Ordinance for the order of appointing and receiving honorary (not regularly appointed) consular officials.

<sup>9</sup>Article 12 (6) r of the Implementing instruction.

<sup>10</sup>Article 3 (2) of Law on Civil Registration/*Закон за гражданската регистрация*. Promulgated in SG No 67/27 July 1999, last amendment in SG No 47/5 June 2018.

<sup>11</sup>Article 90; Article 93 (1).

<sup>12</sup>See Articles 96–97.

<sup>13</sup>It was established in 1992. Since 2000 it is a State Agency, which means an institution of the Council of Ministers.



state institutions with higher administrative ranks than the Agency, which creates institutional challenges.

The Agency also plays an important role in the procedure for certifying Bulgarian origin. Foreigners of Bulgarian origin who have obtained certificates to this effect have their access to the labour market (if they are not EU citizens) and naturalisation procedure facilitated (see Vankova 2018a).<sup>14</sup> In addition, the vice prime minister responsible for economic and demographic policies is in charge of the coordination of the Agency's work and the overall policy towards Bulgarians abroad (Strategy 2014).

At the end of 2017, a Council for working with Bulgarians abroad (*Съвет за работа с българите в чужбина*) was established as a consultative body to the Vice-President of the Republic of Bulgaria. This consultative body can be seen as the successor of the Council for Bulgarians abroad established by the former President, Rossen Plevneliev (2012–2017).<sup>15</sup> The current Council's establishment and *modus operandi* is regulated by the Operating Rules for the Council for working with Bulgarians abroad, approved by the General Secretary of the President of Bulgaria (information received on the basis of an official request for information to the Presidency, 2018). The Council assists the Vice-President in exercising the powers related to the policies for Bulgarians abroad, the Bulgarian communities abroad and the Law on the Bulgarians living outside the Republic of Bulgaria. The Council prepares opinions on pending amendments of legal acts, participates in research and forums on issues related to Bulgarians abroad (ibid). The regular meetings of the Council are held once a month. Currently there is no institutionalised mechanism for consultation with the Bulgarian communities abroad. The Vice-President and sometimes representatives of the Council meet diaspora members during their visits abroad.

In addition, the Bulgarian Ministry of Labour and Social Policy maintains and develops a network of labour and social services in the relevant diplomatic representations abroad to protect the rights of Bulgarian workers residing in other countries.<sup>16</sup> Such services are available at the embassies of Bulgaria in eight countries.<sup>17</sup> They are provided by the so-called "labour attachés", a total of five people based in embassies in Vienna, Athens, London, Madrid and Berlin (ibid). They, however, are

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<sup>14</sup>The Minister of Justice announced pending amendments to the Law on Bulgarian Citizenship concerning the naturalisation procedure based on Bulgarian origin due to alleged corruption schemes operated by officials from the State Agency for Bulgarians Abroad. For more information, see [https://www.dnes.bg/obshtestvo/2018/10/30/za-godina-otkazali-dokument-za-bg-proizhodna-750-dushi.392062?fbclid=IwAR1EGb6WydJp\\_VDlw2GWQCV905mAZm9MWX-30FL2-mSxUH60GqskZL-fwag](https://www.dnes.bg/obshtestvo/2018/10/30/za-godina-otkazali-dokument-za-bg-proizhodna-750-dushi.392062?fbclid=IwAR1EGb6WydJp_VDlw2GWQCV905mAZm9MWX-30FL2-mSxUH60GqskZL-fwag). Accessed 20 December 2018.

<sup>15</sup>For more details on its activities, see <https://m.president.bg/bg/cat126/Problemi-na-palnocennia-dialog-i-satrudnichestvo-na-balgarite-po-sveta>. Accessed 20 December 2018.

<sup>16</sup>See Articles 63–64 of the Law and Labour Migration and Labour Mobility/ *Закон за трудовата миграция и трудовата мобилност*, Promulgated in SG 33/26 April 2016, last amendment in SG No 24/16 March 2018.

<sup>17</sup>Ministry of Labour and Social Policy (2014). Network of Labour and Social Services. <https://www.mlsp.government.bg/index.php?section=POLICIESI&I=266&lang=> Accessed 22 July 2018.

responsible also for other countries - Switzerland (the Vienna-based attaché), Ireland (the London-based attaché), Cyprus (Athens-based attaché). The labour attachés travel to these destinations periodically and provide information and support on matters related to legal employment.

Finally, it should be mentioned that the 2000 Law on the Bulgarians living outside the Republic of Bulgaria envisages the establishment of a National Council for Bulgarians living outside the Republic of Bulgaria (*Национален съвет за българите, живеещи извън Република България*).<sup>18</sup> It is meant to be a state body with appointed members and organizational, coordinating and representative functions, expressing and coordinating the national interests with the interests of non-resident Bulgarians. However, this Council has not been established since the adoption of the Law in 2000.<sup>19</sup> One possible explanation is that no implementing regulation to the 2000 Law has been adopted so far (information received on the basis of an official request for information to the State Agency for the Bulgarians Abroad, 2018). The 2014 National Strategy also envisaged the establishment of such a body, but it specified that 4/5 of its members should be elected among Bulgarians residing abroad.

Furthermore, Article 5 of the 2000 Law provides for the establishment of consultative bodies to the diplomatic representations of Bulgaria in the countries where there are Bulgarian communities or Bulgarian national minorities. These independent public advisory bodies should consist of representatives appointed by the responsible state authorities in the relevant host state. Heads of the respective diplomatic representations of the Republic of Bulgaria abroad are in charge of organising and conducting the elections for such councils in accordance with Regulations approved by the Ministry of Foreign Affairs. However, so far this provision of the Law has not been implemented and no such consultative bodies have been established. Bulgarians living abroad self-organize in temporary public councils (*временни обществени съвети*).<sup>20</sup> Nine such councils were organised according to the website Global Bulgaria<sup>21</sup> that serves as an informal coordination platform.

Among mainstream political parties, the Bulgarian Socialist Party (*Българска социалистическа партия*) is the only one that formally envisages infrastructure for citizens abroad. According to its statute, the main party organizations are formed on the initiative of socialists or local party councils of at least five members. Such organizations may also be created by party members living abroad if this is not contrary to the laws of the respective country.<sup>22</sup> Such structures exist, for instance,

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<sup>18</sup> See Articles 17–22.

<sup>19</sup> See for instance: <http://www.parliament.bg/bg/parliamentarycommittees/members/2400/steno/ID/3614>

<sup>20</sup> For more information, see <http://www.parliament.bg/bg/parliamentarycommittees/members/2400/steno/ID/3614>

<sup>21</sup> Global Bulgaria (2018). Temporary Public Councils of Bulgarians Living Abroad. <http://global-bulgaria.eu/sample-page/>. Accessed 22 July 2018.

<sup>22</sup> Bulgarian Socialist party (2017). Statute of the Bulgarian Socialist Party. <http://bsp.bg/files/attachments/2018/10/02/823340730aaf037576255313c87408f7.pdf>. Accessed 22 July 2018.

in the UK, Germany and Moldova.<sup>23</sup> The other mainstream parties do not explicitly provide for such structures in their statutes, although media outlets indicate that they also have infrastructures abroad, supported by local party members who become active mainly before elections.<sup>24</sup>

### 4.2.3 Key Engagement Policies

The 2014 National Strategy for Bulgarian Citizens and Historic Bulgarian Communities aims to establish a policy framework for a comprehensive, long-term and integrated state policy for Bulgarian citizens and Bulgarian historic communities abroad. It involves most of the above-mentioned institutions. The Strategy lists the following policies towards Bulgarians abroad: national representation policy; educational policy; cultural policy; “young” Bulgarian emigration policy related to the national policy on migration; historic Bulgarian communities’ policy; and information policy. The 2012 National Demographic Development Strategy contains among its aims the development of a migration policy for attracting Bulgarians living abroad and the introduction of special measures and activities targeted at ethnic Bulgarians living outside the country (Strategy 2012). In addition, the 2015 National Strategy in the field of Migration, Asylum and Integration states that the policy towards Bulgarian citizens and persons of Bulgarian origin living abroad is seen as a possible resource for overcoming the negative demographic trends in Bulgaria (Strategy 2015).

So far, there has not been political commitment to implement the 2014 National Strategy for Bulgarian Citizens and Historic Bulgarian Communities. As mentioned, neither the envisaged National Council for Bulgarians living outside the Republic of Bulgaria, nor the consultative bodies to the diplomatic representations have been established yet. The policies that the state has been mainly focusing on are culture and education (based on several decrees of the Council of Ministers), and the facilitated access to Bulgarian citizenship (as part of the historic Bulgarian communities policy based on the 1998 Law on Bulgarian Citizenship and the Law on the Bulgarians living outside the Republic of Bulgaria) (Strategy 2014). In addition, many activities have been implemented in line with the 2012 National Demographic Development Strategy and its Programme “Bulgarians abroad”, such as initiatives focusing on preserving the Bulgarian identity and studying the Bulgarian diaspora (Yanev 2017b, p. 85).

A main part of the educational policy towards Bulgarians abroad is implemented through the so-called Bulgarian Sunday schools (Article 1(2) of the Decree No 90 of the Council of Ministers of 29 May 2018 for the Bulgarian Sunday schools

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<sup>23</sup>Duma (2017). BSP has no ceiling in electoral support. <http://www.duma.bg/node/156206>. Accessed 22 July 2018.

<sup>24</sup>24 Chasa (2011). Our parties are crawling abroad. <https://www.24chasa.bg/Article/986668>. Accessed 22 July 2018.

abroad).<sup>25</sup> These schools are licensed by the Ministry of Education and Science. Their activities are supported financially through the National Program “Native Language and Culture Abroad” (*Национална програма „Роден език и култура зад граница”*) and the mechanism for funding of the Bulgarian Sunday schools which is regulated by Decree No 90 (former No 334) of the Council of Ministers (Penchev et al. 2017; Kulov and Borisova 2017, p.108). State educational institutions in the host countries providing education in Bulgarian language and culture can apply for project-based funding under the National Programme (Yanev 2017b, p. 88; Kulov and Borisova 2017, p.110). The programme can provide financial resources for textbooks and teaching materials, extracurricular activities (theatrical, singing, dance groups), folk costumes and musical instruments (Kulov and Borisova 2017, p.110). 137 Bulgarian Schools abroad were funded under this Program in the academic year of 2017/2018 and the programme’s current budget for the 2018–2019 period is 1,500,000 BGN.<sup>26</sup>

The Decree No 90 (former No 334) of the Council of Ministers provides another funding possibility for Bulgarian schools abroad which have been functioning for at least a year (Kulov and Borisova 2017, p.110). The Decree contains the procedures and requirements for financing the Sunday schools on the basis of a calculation of their overhead costs and expenditure per pupil for conducting training and extracurricular activities. The Bulgarian state has supported financially 190 schools under this Decree in the academic year 2017/2018, compared to 175 in the previous year (Kulov and Borisova 2017, p.110).<sup>27</sup>

These two financial mechanisms are considered as best practices among the policies towards Bulgarians abroad in general (Penchev et al. 2017). The number of schools supported financially by the National Programme grows every year and has reached 208 in 2018.<sup>28</sup> However, there are also Bulgarian Sunday schools which are relying on their own funding (Kulov and Borisova 2017, p.109). In addition, many of the schools are represented in the “Association for Bulgarian schools abroad”, which has been identified as good practice for joint policy initiation and a positive development driver of the Bulgarian school education abroad (Penchev et al. 2017).

The Bulgarian Sunday schools carry out education in Bulgarian language and literature, history and civilizations, as well as geography and economics of Bulgaria

<sup>25</sup> *Постановление No 90/2018 г. на Министерски Съвет за българските неделни училища в чужбина*, Promulgated in SG No 47/5 June 2018. It repealed the previous Decree 334/2011. On the history behind the establishment of these schools, see Christova 2017, 239–249.

<sup>26</sup> Ministry of Education and Science (2018). Council of Ministers Decree for Bulgarian Sunday Schools Abroad. [https://www.mon.bg/bg/174?fbclid=IwAR1FafgrLwzFwg9f\\_rEI0Tx2RgDg-FrkS Fk60bCpPmbGfYsQTB4d\\_V9EjQIg](https://www.mon.bg/bg/174?fbclid=IwAR1FafgrLwzFwg9f_rEI0Tx2RgDg-FrkS Fk60bCpPmbGfYsQTB4d_V9EjQIg). Accessed 10 January 2019.

<sup>27</sup> A list of the state funding per school abroad can be found at the Ministry’s website: <https://www.mon.bg/bg/174>

<sup>28</sup> Ministry of Education and Science (2018). Council of Ministers Decree for Bulgarian Sunday Schools Abroad. [https://www.mon.bg/bg/174?fbclid=IwAR1FafgrLwzFwg9f\\_rEI0Tx2RgDg-FrkS Fk60bCpPmbGfYsQTB4d\\_V9EjQIg](https://www.mon.bg/bg/174?fbclid=IwAR1FafgrLwzFwg9f_rEI0Tx2RgDg-FrkS Fk60bCpPmbGfYsQTB4d_V9EjQIg). Accessed 10 January 2019.

for students from first to twelfth grade.<sup>29</sup> However, they do not provide completion of a class and acquisition of a degree.<sup>30</sup> The education at the Bulgarian Sunday Schools abroad is organised by associations of Bulgarians living outside the Republic of Bulgaria registered according to the legislation of the respective state for carrying out educational-cultural activity; at diplomatic representations abroad; at Bulgarian Orthodox Church Municipalities; and at the Slavonic Bulgarian Monastery “St.Vimche Georgi Zograf” in Mount Athos, Greece.<sup>31</sup> The programme they offer needs to meet several requirements, among which is the participation of at least twenty pupils and that teaching is carried out by persons with professional qualifications.<sup>32</sup> The school year is organized in accordance with the timetable of the schools in Bulgaria or in line with the schedule of school hours in the respective country.<sup>33</sup>

According to the 2000 Law on the Bulgarians living outside Republic of Bulgaria,<sup>34</sup> non-resident Bulgarians receive assistance from Bulgarian institutions and organizations through lecturers, teaching materials, material resources or other appropriate means of teaching Bulgarian language, studying Bulgarian literature, history, geography and other disciplines.<sup>35</sup> The Bulgarian State is also required to create conditions for the improvement of the qualifications of the teachers of courses taught in Bulgarian abroad and, if necessary, second Bulgarian lecturers. The 2000 Law also provides for the support of Bulgarians abroad and their organizations, which is implemented through government and private programs.<sup>36</sup> They are supposed to be set up by the relevant ministries and implemented on the basis of projects. The programs are planned to be for 1–5 years and aim to create favourable conditions for Bulgarians abroad in the spheres of science, culture, education and health. They may also cover events related to the conservation of objects abroad forming part of the Bulgarian cultural and historic heritage. In a response to an official request for information, however, the State Agency for the Bulgarians Abroad stated that these programs depend on the establishment of the National Council for Bulgarians living outside Republic of Bulgaria and since such a Council has not been established, no such programs are envisaged yet.

In addition, the State Agency for the Bulgarians abroad maintains a database of Bulgarian cultural and educational organizations, churches and schools abroad.<sup>37</sup>

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<sup>29</sup> Article 1 of the Decree.

<sup>30</sup> Article 2 (1).

<sup>31</sup> Article 1 (1). The full list of schools abroad can be found at the Ministry’s website: <https://www.mon.bg/bg/174>

<sup>32</sup> Article 3.

<sup>33</sup> Article 4.

<sup>34</sup> *Закон за чужденците в Република България*. Promulgated in SG No 153/23 December 1998, last amendment in SG No 77/18 September 2018.

<sup>35</sup> See Article 11.

<sup>36</sup> Article 23.

<sup>37</sup> State Agency for the Bulgarians Abroad (SABA) (2018). Register of the Organisations of Bulgarians in Accordance with the Law for the Bulgarians living outside the Republic of Bulgaria.

There are also educational activities envisaged in the Decree No 103 of the Council of Ministers of 31 May 1993 on the implementation of educational activities among Bulgarians abroad.<sup>38</sup> The activities are targeted towards foreign citizens and stateless persons of Bulgarian origin. The Decree covers teaching and methodological assistance for Bulgarian language teaching institutions abroad for support of students who intend to apply at Bulgarian universities. It also provides for a quota of more than 400 places in Bulgarian higher education institutions, which are reserved for students of Bulgarian origin, as well as for scholarship possibilities (Yanev 2017b, p. 88). In addition, a separate Decree No 228 of the Council of Ministers of 20 May 1997 for the admission of citizens of the Republic of Macedonia as students in the universities of the Republic of Bulgaria, regulates 150 subsidized places at Bulgarian universities for such students.<sup>39</sup> According to Yanev (2017b), most of the students who make use of these policy instruments apply for naturalisation and become Bulgarian citizens. One of the main criticisms of this policy is that it prioritises members of the historical kin communities over those with Bulgarian citizenship who belong to the new emigrant communities and are trained at the Sunday schools, by excluding them from the possibility to apply under these quotas (Penchev et al. 2017).

With regards to the cultural policy towards Bulgarians abroad, the State Agency for Bulgarians Abroad organizes cultural events related to the activities of Bulgarian communities and their organizations abroad, such as concerts, exhibitions, book promotions and premieres of documentaries.<sup>40</sup> According to the 2000 Law on the Bulgarians living outside the Republic of Bulgaria, non-residents are provided with the opportunity to be acquainted with Bulgarian culture and science, and to participate in their development, according to their wishes and interests.<sup>41</sup> For this purpose, the Bulgarian State through its respective institutions is required to send printed publications and other materials for acquaintance with life, culture and other spheres of the development of Bulgaria, and to organise cultural and scientific events in Bulgaria or in the countries with Bulgarian communities. The website of the State Agency for Bulgarians Abroad provides numerous examples of such initiatives. For instance, the Agency organises an annual fine art competition “Bulgaria in My Dreams” for children and youngsters from the Bulgarian communities abroad.<sup>42</sup>

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<http://www.aba.government.bg/index.php?show=registur>. Accessed 22 July 2018.

<sup>38</sup> Постановление No 103 на Министерски Съвет от 31 Май 1993 г. за осъществяване на образователна дейност сред българите в чужбина. Promulgated in SG No 48/4 June 1993.

<sup>39</sup> *Постановление No 228/1997 г. на Министерски Съвет за приемане на граждани на Република Македония за студенти в държавните висши училища на Република България.* These two acts are complimented by Decree No 90 of the Council of Ministers of 26 May 2000 on the conditions and procedures for granting scholarships to students, PhD and post-doctoral students from state higher schools and scientific organizations. Promulgated in SG No 44/30 May 2000.

<sup>40</sup> State Agency for the Bulgarians Abroad (2018). Unification of Bulgarian Communities Around the World. <http://www.aba.government.bg/?show=16>. Accessed 22 July 2018.

<sup>41</sup> Article 12.

<sup>42</sup> State Agency for the Bulgarians Abroad (2018). Fine Art Competition for Children and Youngsters from Bulgarian Communities Abroad “Bulgaria in My Dreams” 2018. <http://www.aba>.

The Bulgarian Cultural Institutes abroad (see below) promote Bulgarian literature through events and libraries (Penchev et al. 2017).

Penchev et al. (2017), however, note that, currently, the Agency is focused much more on the historic Bulgarian communities (for instance by forming an important part of the procedure certifying Bulgarian origin) and less on Bulgarian emigrants (see also Waterbury 2018). Another criticism is that the Agency's budget needs to be reorganised in order to allow research and monitoring of the policy implementation concerning Bulgarians abroad (ibid).

Furthermore, the Ministry of Culture coordinates and funds Bulgarian Cultural Institutes abroad. Their main tasks are to support the preservation of the Bulgarian national cultural identity and to increase awareness of Bulgarian culture in the world. A National Cultural Fund was established in 2000 as part of the Ministry of Culture. The fund supports creative projects aimed at developing the Bulgarian cultural sector on the basis of competitive calls for proposals, and since its creation has allocated project funding amounting to 4,500,000 BGN (e.g. 366,693 BGN for 2017).<sup>43</sup> In addition, the National Donation Fund "13 Centuries Bulgaria"<sup>44</sup> organises an annual prize for Bulgarian-language media that contributes to the dissemination and popularisation of Bulgarian culture abroad. It is awarded every year at the World Meeting of Bulgarian Media organized by the Association of Bulgarian Media Abroad and the Bulgarian Telegraph Agency.<sup>45</sup>

Another important diaspora policy in the Bulgarian context is the facilitated access to Bulgarian citizenship as part of the historic Bulgarian communities' policy. Individuals can demonstrate their ethnic Bulgarian origin, *inter alia*, on the basis of the birth certificates of their parents and grandparents, their mother tongue, membership of a Bulgarian Church, school or the former Bulgarian citizenship of their parents (Smilov and Jileva 2009, 225). According to the 1998 Law on Bulgarian Citizenship, persons of Bulgarian origin are exempted from the majority of obligations that one needs to meet under the general naturalisation regime. They need to have reached the age of majority and they must not have been sentenced by a Bulgarian court for a premeditated crime of a general nature or subject to criminal proceedings for such a crime unless the person concerned has been rehabilitated.<sup>46</sup> As mentioned, the State Agency for Bulgarians Abroad plays an important part in this facilitated procedure by certifying Bulgarian origin for those persons applying for naturalisation, as well as those wishing to access the Bulgarian labour market and permanent residence. The 2000 Law on Bulgarians Living outside the Republic of Bulgaria provides the conditions for the establishment of Bulgarian origin, such as on the basis of documents issued by a Bulgarian or foreign state institution, an organisation of Bulgarians living outside

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[government.bg/?show=38&nid=1908](http://government.bg/?show=38&nid=1908). Accessed 22 July 2018.

<sup>43</sup>National Cultural Fund (2019). History. <http://ncf.bg/za-nfk/istorija>. Accessed 3 March 2019.

<sup>44</sup>For more information on National Donation Fund "13 Centuries Bulgaria", see <http://fond13veka.org/?p=227&l=1>

<sup>45</sup>For more information on the World Meeting of Bulgarian Media, see <https://offnews.bg/medii/14-tata-svetovna-sreshta-na-balgarskite-medii-shte-se-provede-v-skopie-687090.html>

<sup>46</sup>Article 15 (1) 1. For a summary of the general naturalisation regime in Bulgaria, see Ilareva 2015, 76–77.

Bulgaria approved by the authorised state institution or by the Bulgarian Orthodox Church.<sup>47</sup>

Outside the strategic policies towards the Bulgarians abroad envisaged by the 2014 Strategy, they can also benefit from consular protection. Any Bulgarian citizen residing abroad may apply for a passport issued by the Ministry of Interior through a diplomatic or consular representation abroad. The period for issuing a passport by the consulate is up to 90 days.<sup>48</sup> Applicants' requests for passports are sent to the Ministry of Interior electronically. The new documents are received personally at the consulate and, exceptionally, by an authorized person with an explicit power of attorney. Currently, the application can be submitted online and appointment at the consulate can be scheduled online.<sup>49</sup>

Consulates can also receive applications by Bulgarian citizens for the issuing of identity cards, driving licenses, or temporary passports. The procedure is the same as the one described above. They can also draw up civil status acts (birth certificates, civil marriage certificates, and death certificates).<sup>50</sup> According to the Ministry of Foreign Affairs's (MFA) Consular Affairs Directorate, consulates also organise external consulate days/weeks, where they offer services to Bulgarian citizens living in the respective host country in areas where there is no consular representation. For instance, the Bulgarian Embassy in Athens organized external consular days on the island of Crete in October 2018, where Bulgarian citizens were able to apply for personal documents, validate proxies and declarations and receive personal documents.<sup>51</sup> In 2017, 2331 Bulgarians abroad received such services, which amounted to 30 "consular days" (information received on the basis of an official request for information to the MFA, 2018).

When it comes to financial help provided by consulates to nationals abroad, it should be stressed that Bulgaria does not have such policy even in hardship cases such as death.<sup>52</sup> They can assist in repatriation cases by providing information, but do not offer financial support services.<sup>53</sup> In the event of death, for instance, they can inform the relatives of the deceased and assist them with the transportation of the remains to Bulgaria or with the funeral in the host country by supporting the issuance of the necessary transfer documents (information received on the basis of an official request for information to the MFA, 2018).

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<sup>47</sup> Article 3.

<sup>48</sup> It may be exceeded depending on the periodicity of delivery of the diplomatic mail to the relevant consular post.

<sup>49</sup> See the e-application portal here: <https://www.consulatebg.eu/book>

<sup>50</sup> Ministry of Foreign Affairs (2018). Consular Assistance and Consular Services. <https://mfa.bg/bg/uslugi-patuvania/konsulski-uslugi>. Accessed 10 January 2019.

<sup>51</sup> Ministry of Foreign Affairs (2018). External Consulate Days on the Island of Crete. <https://www.mfa.bg/embassies/greece/messages/19509>. Accessed 10 January 2019.

<sup>52</sup> See the official website of the Ministry of Foreign Affairs: <http://www.mfa.bg/bg/pages/44/index.html>

<sup>53</sup> See *ibid.*



Bulgarians abroad have voting rights in national legislative and presidential elections held in Bulgaria.<sup>54</sup> In addition, those entitled to vote in a national referendum are Bulgarian citizens who are eligible voters with a permanent address in Bulgaria, as established on the date when the referendum is scheduled.<sup>55</sup> This means that, in practice, Bulgarian citizens with a valid ID with a permanent address in Bulgaria, can exercise their right to vote in a national referendum regardless of where they reside (Hristova and Vankova [forthcoming](#)). This is due to the low number of foreign address registrations at the diplomatic representations or the local authorities in Bulgaria for all the citizens that live abroad. Such a situation makes it difficult for state and local authorities to track citizens that have been outside the EU for a longer period of time (*ibid*).

Voting at national elections and referendum abroad is conducted only in polling stations. 21 days prior to the elections, the Central Electoral Commission publishes the addresses of the polling stations for out of country voting (Hristova and Vankova [forthcoming](#)). Citizens living abroad have to file at least 60 requests in order to set up a polling station outside the embassy or diplomatic representation no later than 25 days prior election day. All citizens residing or travelling outside the country on the day of elections have the right to vote in the allocated polling stations, by signing a declaration that they have met the conditions to vote at national elections.<sup>56</sup> There is a limit of 35 polling stations that can be opened in a non-EU country.<sup>57</sup>

There are certain restrictions to stand as a candidate for parliamentary (National Assembly) and presidential elections. According to Article 65 (1) of the Bulgarian Constitution, any Bulgarian citizen who does not hold another citizenship, is above the age of 21, is not under a judicial interdiction, and is not serving a prison sentence, has the right to stand as a candidate for the National Assembly. To be eligible for President, the person should be a natural-born Bulgarian citizen over 40 years of age and qualified to be elected to the National Assembly, who has resided in the country for the period of five years preceding the election.<sup>58</sup>

Finally, the only relevant economic policy initiatives that are designed to encourage the return of citizens residing abroad are implemented by the State Agency for Bulgarians Abroad and the Ministry of Labour and Social Policy. The Agency is the initiator and co-organizer of several policy measures dedicated to the professional fulfilment of young Bulgarians in their homeland who graduated from foreign universities (see Dimitrova 2017, p. 254). These include surveys, round tables, labour exchanges, conferences, discussions, such as the Forum “*Career in Bulgaria. Why*

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<sup>54</sup> See Article 3 of the Electoral Code/*Изборен кодекс*, Promulgated in SG No 19/5 March 2014, last amendment in SG No 102/11 December 2018.

<sup>55</sup> Article 4 (1) of the Direct Citizen Participation in State and Local Government Law/*Закон за пряко участие на гражданите в държавната власт и местното самоуправление*. Promulgated in SG No 44/12 June 2009, last amendment in SG No 56/24 July 2015.

<sup>56</sup> Article 33 (2) of the Electoral Code.

<sup>57</sup> Central Electoral Commission (CEC) (2017). Decision No 4126-HC Sofia, 26 January 2017. <https://www.cik.bg/bg/decisions/4126/2017-01-26>. Accessed 22 July 2018.

<sup>58</sup> Article 93 (2) of the Bulgarian Constitution,

not?” and maintaining close contacts with Bulgarian student clubs in Germany, USA, Canada, Austria and France (see Dimitrova 2017, pp. 254–259). The Agency assists their activities with consultations and specific assistance on issues requiring the intervention of other state bodies.

In addition, the Bulgarian state aims to attract foreign citizens of Bulgarian origin also through migration policy measures such as bilateral labour agreements. According to the 2015 National Strategy on Migration, Asylum and Integration, the Eastern Partnership states are among the target countries of this policy measure (see Vankova 2018a, 390–394). In 2018, Bulgaria concluded the first such bilateral labour migration agreements with Armenia<sup>59</sup> and Moldova.<sup>60</sup>

### 4.3 Diaspora Policies and Social Protection in Bulgaria

The Bulgarian state does not currently have a cohesive policy facilitating the access to social protection for Bulgarians residing abroad. There are, however, some sectorial information policies in the field of unemployment, health care, pensions, family benefits and guaranteed minimum resources for this target group, as well as 14 bilateral agreements in the field of social protection.<sup>61</sup>

The main state interaction with Bulgarians abroad in the field of social protection is through its diplomatic representations and the network of labour and social services available at the embassies of Bulgaria in only eight countries and provided by the labour attachés. The main diaspora body, the State Agency for Bulgarians Abroad, does not play any active role in this regard.

As discussed above, labour attachés mainly provide information on social policy matters in the host country and in Bulgaria but they do not engage themselves directly in dealings with Bulgarians abroad, e.g. assisting the application process for unemployment benefits in another EU Member State. They can, however, collaborate with local NGOs. For instance, the labour attaché in Vienna was engaged in the organization of Information Days for Bulgarians in Austria in cooperation with the

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<sup>59</sup> Спогодба между Република България и Република Армения за регулиране на трудовата миграция, утвърдена с Решение No 176 от 22 март 2018 г. на Министерския съвет, в сила от 9 октомври 2018 г./ Agreement between the Republic of Bulgaria and the Republic of Armenia on labor migration management, approved by Council of Ministers Decision No 176 of 22 March 2018, entered into force 9 October 2018.

<sup>60</sup> Спогодба между правителството на Република България и правителството на Република Молдова за регулиране на трудовата миграция, утвърдена с Решение No 492 на Министерския съвет от 13 юли 2018 г., в сила от 11 септември 2018 г./ Agreement between the Government of the Republic of Bulgaria and the Government of the Republic of Moldova on labor migration management, approved by Council of Ministers Decision No 492 of 13 July 2018, entered into force on 11 September 2018.

<sup>61</sup> Bulgaria has such agreements with Yugoslavia (currently refers to: Bosnia and Herzegovina and Montenegro), Serbia, Albania, Libya, Tunisia, Turkey, Macedonia, Israel, Korea, Canada, Russia, Moldova and Ukraine.

“*Beratungszentrum für neue EU-BürgerInnen-KOMPASS*” for three consecutive years. One of the topics covered was the social protection system of Austria.<sup>62</sup> The consulates are required to provide general information about the rights and conditions of social insurance in the relevant foreign country. This, nevertheless, excludes any financial support or cash assistance provided by the Bulgarian state. Furthermore, except for assisting with information in such cases, the Bulgarian state does not have any repatriation policy towards Bulgarians abroad.

Bulgarians abroad are covered by the EU legal framework on social security coordination in Member States such as Spain (112,000 Bulgarians), Greece (70,100 Bulgarians) and Germany (68,400 Bulgarians), which are among the top preferred destinations in the EU. In addition, Bulgaria has signed a bilateral agreement with Turkey (262,300 Bulgarians), which covers only the exportability of pensions (see Vankova and Draganov 2020). Despite the attempts of the Bulgarian state, another large Bulgarian community, namely the one in the USA (57,100 Bulgarians), is still not covered by a bilateral agreement in the field of social security coordination (Vankova 2018b).

### 4.3.1 Unemployment

Apart from specific provisions in bilateral agreements between Bulgaria and third countries and the EU legal framework on social security coordination, Bulgaria does not have a specific unemployment policy targeting Bulgarians abroad. The website of the Employment Agency contains only information about the specifics of employment in seven EU Member States, and tips to avoid abuse and fraud when looking for a job abroad.<sup>63</sup> Bulgarians abroad can also rely on information concerning unemployment issues (e.g. information about existing benefits in the host country) and relevant contacts with institutions from the network of the labour attachés, where applicable. Consulates can also provide general information about the rights and procedures of social insurance in the relevant foreign country.

Unemployment is not covered by the social security agreement with Turkey, but it is included in the material scope of the agreement with Ukraine, for instance (Vankova 2018b). According to the latter, in case the right to an unemployment benefit and the period of payment of the benefit under the legislation of one of the contracting parties depend on the accumulation of a certain insurance period, the competent institution of that country is required to take into account insurance periods acquired under the legislation of the other contracting party in case the insurance periods do not match by time (Article 17 of the Agreement).<sup>64</sup> Unemployment

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<sup>62</sup> See the information brochure here: [https://issuu.com/bgkontakti/docs/folder\\_klein/6?fbclid=IwAR2RV\\_n0GSEWqEgUKgVGTKxmJV8QTs6t8Q-xo2HjqC06WFOtdXhg0neMNFA](https://issuu.com/bgkontakti/docs/folder_klein/6?fbclid=IwAR2RV_n0GSEWqEgUKgVGTKxmJV8QTs6t8Q-xo2HjqC06WFOtdXhg0neMNFA)

<sup>63</sup> See <https://www.az.government.bg/pages/rabota-v-chuzhbina/>

<sup>64</sup> See Article 17.

benefits are provided in accordance with the legislation and on the account of the applicant's country of residence.

### **4.3.2 Health Care**

Despite the fact that most Bulgarians have a permanent address in Bulgaria by default, they cannot directly access health care services and/or benefits if they live abroad (see Vankova and Draganov 2020). The website of the Ministry of Health provides accessible information regarding the rights of Bulgarians who work in or outside the EU and have dual citizenship.<sup>65</sup> Detailed information on how to recover one's health care rights is provided also through the website of the National Revenue Agency.<sup>66</sup> As mentioned, the network of labour attachés and consulates can also provide information on this issue.

The social security agreement with Turkey covers only pensions, including invalidity pensions, which can be exported. By comparison, the agreements with Ukraine and Russia have broader material scope and also cover sickness cash benefits (Vankova 2018b). According to the agreement with Russia, for instance, when determining the right to sickness benefits and their amount, account shall be taken of the entire insurance period completed on the territory of the two contracting parties, except where such periods overlap during their acquisition (Article 8 of the Agreement).

### **4.3.3 Pensions**

The National Social Security Institute provides general information on pensions, international social security agreements and other relevant legal acts and forms through its website and through its offices in the country.<sup>67</sup> In addition, the network of labour attachés provides information and support on matters related to pensions in Bulgaria and can seek assistance of NGOs active in the relevant field.

Along with providing general information about the rights and conditions of social insurance in the relevant foreign country, the consulates also get involved in the procedure by which the National Social Security Institute in charge of pensions requires non-resident nationals to submit a life declaration to continue receiving their pension while residing abroad.

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<sup>65</sup> See <http://www.mh.government.bg/bg/informaciya-za-grazhdani/osigurovki/zdravni-osigurovki-na-blgarite-v-chu>

<sup>66</sup> See <http://www.nap.bg/page?id=352>

<sup>67</sup> See <http://www.noi.bg/aboutbg/contacts>

Bulgarian pensions abroad are paid only on the basis of the EU social security coordination framework or bilateral social security agreements allowing for export of pensions, such as the one concluded with Turkey. The general rule for recipients of pensions abroad is to provide a life declaration for each payment period, which must be no shorter than three months. Persons with a permanent address abroad who receive pensions in a bank account in Bulgaria shall submit such declaration at the beginning of the payment of the pension and during the period from 1 November to 31 December of each calendar year. If the pensioner fails to send a declaration filled in and certified by an insurance institution, a notary, a consular post of the Republic of Bulgaria or any other official designated by the law of the state concerned, the payment of the pension shall be suspended.<sup>68</sup> An agreement in the field of social security with a third country can provide for different terms and procedures other than those described above.<sup>69</sup>

#### ***4.3.4 Family-Related Benefits***

Family benefits and birth allowances are available only for children raised in Bulgaria. Therefore, no facilitation services are provided by consulates which, however, have a role in the process of obtaining birth certificates. According to the Law on Civil Registration, Bulgarian citizens residing abroad are obliged within six months after the issuing of their child's birth certificate by a foreign local authority to provide a certified copy or extract of the document together with a request stating their permanent address in Bulgaria (as stipulated on their ID) to the Bulgarian diplomatic or consular representation in the respective country. If they are not able to present the act to the diplomatic or consular representative, they may present it directly to the civil status official in the municipality according to their permanent address in Bulgaria together with a legalized and certified translation into Bulgarian if necessary.<sup>70</sup> Third country nationals are eligible to apply for such benefits only on the basis of international or bilateral agreements concluded between Bulgaria and their country of origin. For instance, the bilateral agreements with Russia and Ukraine cover maternity and family benefits (see Vankova and Draganov 2020). The EU social security coordination framework applies to EU Member States.

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<sup>68</sup>Article 81 (1) of the Ordinance on Pensions and Insurance periods/*Наредба за пенсиите и осигурителния стаж*. Annex No 1 to Decree of the Council of Ministers No 30 of 10 March 2000. Promulgated in SG No 21/17 March 2000.

<sup>69</sup>Article 81 (4).

<sup>70</sup>Article 70.

### 4.3.5 *Economic Hardship*

Bulgaria does not have a guaranteed minimum resources policy available for Bulgarians residing abroad. Therefore, Bulgarians cannot rely on any financial support, such as loans, provided by consulates. They can only use the above-mentioned channels of information through the consulates and labour attachés abroad. Consulates can establish contact with relatives, refer to the “Social Assistance” Directorates in Bulgaria when a homeless person is involved who does not have a home or relatives in Bulgaria, find a suitable NGO which has a budget for such activities, facilitate assistance of local social workers when they need information or contact with the Bulgarian institutions (information provided by the network of labour attachés). This issue is also generally not covered in social security agreements.

## 4.4 Conclusions

As this chapter has demonstrated, the overarching policy towards Bulgarians abroad is fragmented, scattered among various institutional actors and inconsistently implemented. It is intertwined with the country’s migration policy and the notion that the return of Bulgarian emigrants and attracting persons of Bulgarian origin living abroad are a possible solution to overcoming the negative demographic trends that the state faces. When implementing this policy, however, Bulgaria places its institutional focus on historic kin communities and rather marginalises Bulgarian emigrants (Waterbury 2018, p. 349; Penchev et al. 2017).

The Bulgarian state puts an emphasis mainly on educational and cultural measures and policies aiming to attract foreigners of Bulgarian origin through a facilitated procedure for naturalisation and eased access to the labour market (Vankova 2018a). The lack of any political commitment to establish national consultative bodies representing Bulgarians abroad, 18 years after the Law on the Bulgarians living outside the Republic of Bulgaria was adopted, is striking.

Several factors can explain the inconsistent implementation of the policy towards Bulgarians abroad. Firstly, it can be attributed to the weak institutional coordination tasking an agency with a lower administrative rank to coordinate the implementation of a diaspora policy which is scattered among too many institutions. Secondly, the lack of a single cohesive legislative act which regulates the state’s relations with Bulgarians abroad and replaces the already out-dated 2000 Law on the Bulgarians living outside the Republic of Bulgaria, is another reason for the current state of diaspora policies in the country (see also Yanev 2017a, b, p. 86). Thirdly, as the analysed policy development data suggests, there seems to be no political commitment to implement this policy. The absence of an implementing regulation to the current 2000 Law on the Bulgarians living outside the Republic of Bulgaria is among

the reasons why this act could not be implemented in practice and one of the main challenges concerning the establishment of national consultative bodies. Another interlinked factor that needs to be considered is that any policy implementation requires funding to be allocated from the state budget. Bulgaria is still the EU Member State with the lowest GDP per capita at 51% below the EU average and with modest household income.<sup>71</sup> Important public policy reforms, such as in the health care and security sectors, are still lagging behind and public money are not being spent efficiently (Mihailova 2018). Therefore, it could be concluded, that this is also among the reasons why the National Strategy for the Bulgarian Citizens and Historic Bulgarian Communities is so unevenly implemented.

All these factors are also relevant when assessing the state of the social protection policy towards Bulgarians abroad. Currently, issues falling under the scope of this policy are dealt by the network of labour and social services, available at the embassies of Bulgaria in eight countries, and the consular network. The services delivered by these labour attachés and the consulates, however, are focused on providing information and exclude any financial support, such as repatriation in cases of death or homelessness. Another important policy pillar in the field of social protection are the bilateral social security agreements, which Bulgaria actively pursues (Vankova 2018a/b). Despite that, not all Bulgarian communities abroad are covered by such instruments, with the USA being a notable example. The lack of an overall policy on social protection for Bulgarians abroad also explains why there is no cohesive information strategy in this regard. Currently, each social protection-related institution provides information on its separate website.

A Draft Law on Consular Services and Consular Support was presented in January 2013 by the then Minister of Foreign Affairs, Nikolay Mladenov.<sup>72</sup> The Draft Law aimed at providing, amongst others, financial support and social assistance to Bulgarians abroad. Due to the resignation of the government in 2013, the Draft Law did not reach the parliament reading phase and none of the successive governments in power or political parties have picked up this issue since then. A new trend that is observed in Bulgaria's consular services, however, is the MFA's policy to provide flexible solutions to Bulgarians abroad through "dematerialized" instruments such as e-platforms and mobile consular services.

Taking into account these developments and the factors explaining the current state of the policy towards Bulgarians abroad, it seems unlikely that social protection for Bulgarians abroad would become a political priority in the next few years.

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<sup>71</sup> Eurostat (2018). GDP per capita, consumption per capita and price level indices. [https://ec.europa.eu/eurostat/statisticsexplained/index.php/GDP\\_per\\_capita,\\_consumption\\_per\\_capita\\_and\\_price\\_level\\_indices#Overview](https://ec.europa.eu/eurostat/statisticsexplained/index.php/GDP_per_capita,_consumption_per_capita_and_price_level_indices#Overview). Accessed 3 March 2019.

<sup>72</sup> For more details on the Draft Law, see [https://www.dnevnik.bg/bulgaria/2013/02/14/2002997\\_vunshnoto\\_ministerstvo\\_tursi\\_mneniia\\_po\\_zakonoproekta/](https://www.dnevnik.bg/bulgaria/2013/02/14/2002997_vunshnoto_ministerstvo_tursi_mneniia_po_zakonoproekta/). For comments during the public consultation, see: <http://www.strategy.bg/PublicConsultations/View.aspx?@lang=bg-BG&Id=844>

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# Chapter 5

## Diaspora Policies, Consular Services and Social Protection for Croatian Citizens Abroad



Daphne Winland

### 5.1 Introduction

The goal of this chapter is to outline and analyse Croatian social protection provisions for Croats abroad. These are predominantly focused on citizenship acquisition, cultural, educational and, to a lesser extent, economic entitlements. The centrality of Croatia's large diaspora to the nation-building project of the new state (Croatia declared independence in 1991) is reflected in the particularities of voting policies, and investment and taxation incentives geared towards Croats abroad. Social protection is a major component of state priorities specifically as they relate to minorities- for example, Croats in Bosnia and Herzegovina, and those Croats deemed to be minorities in the states that formed after the dissolution of the Federal Republic of Yugoslavia in 1990 such as Serbia and Slovenia. This chapter begins with a brief historical overview of the Croatian social and political context, followed by a discussion of the policy infrastructure with regard to diaspora, as well as a discussion of consular processes in five key policy areas.

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## 5.2 Diaspora Policy Infrastructure and Key Policies in Croatia

### 5.2.1 *The Croatian Diaspora and Its Relations with the Homeland*

The history of Croatia, beginning as a medieval kingdom in the eighth century and culminating in its current status as an internationally recognized nation state, is essential for understanding of the current configuration of policies and practices dealing with the state's ongoing relationship with its nationals abroad. The span of this history has included extended periods of occupation by imperial powers - the Venetian Republic, the Ottoman and the Austro-Hungarian empires -, the establishment of the Kingdom of Yugoslavia and the short-lived Independent State of Croatia under Axis influence, followed by Socialist Yugoslavia and finally, the declaration of Croatian statehood in 1991 (Magaš 2007; Goldstein 1999; Baker 2015). Croats abroad have not only been an important source of remittances for over a century, but also active in agitating for Croatian independence from Yugoslavia, sometimes violently (for example, the hijacking of a TWA flight in 1976).

After declaring independence, Croatia found itself in the midst of war. The Homeland War as Croats refer to it from 1991–1995, resulted in the displacement of thousands of Croats who were scattered throughout the former Yugoslav republics and as refugees and emigrants elsewhere, followed by the efforts of international agencies to resettle and/or repatriate those who were displaced. Croats abroad became heavily involved in advocating for and funding the war effort, as well as the political campaign of the first president of Croatia, Franjo Tuđman and his party, the right-leaning HDZ (*Hrvatska demokratska zajednica*). Efforts to incorporate Croats abroad into the Croatian political body were aimed at strengthening Tuđman's status as the leading figure of the post-Yugoslav fledgling government so much so that Croats abroad were mobilized into a new electoral constituency, *Iseljena Hrvatska* (Štiks 2010; Ragazzi and Štiks 2007; Đorđević 2013).

Through its various post-independence political incarnations including the move from a semi-presidential to a parliamentary system, the Law on Croatian Citizenship has consistently and centrally featured Croats abroad in its provisions, laws, and entitlements. Unlike other Croatian political parties, the ruling HDZ has made diaspora representation in Croatian homeland affairs a key platform. The HDZ still has branches in many emigrant communities including Austria, France, Norway, Slovenia, Sweden, Switzerland, the UK, four branches in Germany, as well as Argentina, Australia, the United States, Canada, Venezuela, and South Africa. As in other post-socialist contexts, the trajectory of the Croatian nation building project has involved the development of formal citizenship criteria (influenced more recently by the European Union (EU) accession), coupled with the shifts in substantive meanings, logics, and practices associated with national membership that include Croats abroad.

As demonstrated, relations of diaspora Croats with the homeland have a long and, at times, tumultuous history in response to war, poverty, imperialism, and regime change. Croatia's admission to the EU in 2013 has negatively impacted the demographic profile of Croatia, as many young and educated Croatians have seized on the opportunity to move north to European countries such as Germany and Ireland in search of better job prospects and standards of living (Stubbs and Zrinščak 2017.) Currently, the number of Croatians living abroad (estimated to be over three million) is roughly equivalent to those residing in Croatia (less than four million).<sup>1</sup> The largest community in the former Yugoslavia is in Bosnia and Herzegovina with an estimated 760,000. Over one million Croats live in the United States and 375,000 reside in Germany, while Canada and Argentina each host a population of approximately 250,000 Croats. Australia has a Croatian population of 126,000.<sup>2</sup>

### 5.2.2 *Diaspora Infrastructure*

Those Government ministries that fully or partly deal with Croats outside of the Republic of Croatia (hereafter RC) include the Ministry of Foreign and European Affairs, and the Ministries of Interior, Health, Science and Education, Labour and Pension Systems. Until 2011, the Ministry of Foreign and European Affairs was the primary, but not exclusive, ministry addressing the needs of Croats abroad. Since 2011, the sub-ministry responsible is the Central State Office for Croats Abroad (hereafter CSOCA<sup>3</sup>). The CSOCA was established as a result of the introduction of the Act on Relations between the Republic of Croatia and Croatians Outside the Republic of Croatia (hereafter the Act) also in 2011. The Act is the foundational engagement policy for addressing all matters related to Croats abroad. The designation of Croats abroad is broken down into three categories: (1) the sovereign and constituent Croatian people in Bosnia and Herzegovina, (2) Croatian 'minorities' and, (3) Croatians who emigrated overseas or the 'far abroad' (e.g. Canada, the United States, Australia, New Zealand, Central and South America) or to European countries. In addition, the Act applies to Croatians outside the RC who have either: (a) Croatian citizenship; (b) the "status of Croatian without Croatian citizenship" or; (c) no Croatian citizenship or "status".

The reasons for these designations are as much political as administrative. Thus, for example, Croats abroad, particularly those who agitated for Croatian independence before 1990, were a thorn in the side of the socialist Yugoslav regime (1945–1990), but they were instrumental in advocating for and raising awareness of and funds for both the Homeland War and independence. Since 1990, diaspora

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<sup>1</sup> <http://www.hrvatiizvanrh.hr/en/hmiu/status-of-croatian-immigrants-and-their-descendants-abroad/15>. Accessed 27 June 2018.

<sup>2</sup> 150–200,000 in Serbia, and 54,000 in Slovenia.

<sup>3</sup> Central State Office of Croats Abroad (CSOCA). <http://www.hrvatiizvanrh.hr/>. Accessed 11 March 2018.

Croats have had considerable clout with the ruling HDZ party. The European Union accession process, which began in 2003, made it clear that Croatia had to conform to European norms and standards concerning governance, citizenship, borders and more. For example, soon after independence, the electoral law which provided for the election of non-resident Croats to parliament (the 'diaspora list') had to be amended to conform to EU requirements (Kasapović 2012; Koska 2011). The number of parliamentary seats reserved for Croats abroad was eventually reduced from 12 in the early 1990s to the current three. This is significant in that, as of 2001, the Croatian Parliament changed from a bicameral to a unicameral system, which means that Croats abroad now have a direct influence on the decisions of the Parliament. In addition, whereas in the past, parliamentary seats for diaspora were contingent on diaspora voter turnout, as of 2010, these seats are guaranteed (Baketa and Kovačić 2010). The introduction of the Act, developed in preparation for EU accession, addressed the issue of sovereignty with regards to Croats in Bosnia and Herzegovina (Ragazzi 2009). Currently, the three seats in the Croatian Parliament reserved for Croats abroad are taken up by Bosnian Croats given their large number and proximity to Croatia. In so far as electoral rights are concerned, Croats abroad who have Croatian citizenship and are in the voter registry are entitled to cast their ballots in presidential and parliamentary elections or referenda. The ballots of citizens abroad are added to those that are cast in the RC.

The CSOCA headed by a State Secretary (appointed by the Prime Minister) deals primarily with culture, education, science, sport, economy, as well as the legal position of Croats outside the RC. Its mandate includes encouraging the return and integration of Croats abroad as well as monitoring their conditions and ensuring that their social protection needs are met. The CSOCA's role also includes disbursing funding for programs and projects for Croats outside the RC. Currently, there is no policy regarding the return of Croats abroad to Croatia. The scope of CSOCA's jurisdiction thus includes the coordination and monitoring of activities between administrative bodies and authorities for cooperation between the RC and Croats abroad, care for the protection of rights and the preservation and strengthening of the identity of Croats abroad. Although one of the CSOCA's responsibilities is to compile a registry of Croatian nationals residing abroad, to date there is no information publicly available on such a registry. The Welcome Office of the CSOCA is charged with keeping Croats abroad informed of developments in the RC, hosting cultural and heritage programs and, generally, promoting bonds with Croats globally. It is also responsible for advising those who wish to acquire temporary residence, work and business permits and other benefits in Croatia in accordance with the Act. The Welcome Office provides information on rights concerning health, pension, and disability insurance, tax relief for Croatian returnees or immigrants, customs benefits on return and immigration, recognition of foreign secondary and higher education certificates and diplomas and on the procedures for acquiring property rights in the RC.

It is important to point out the distinction between return and repatriation in the Croatian context arising from the circumstances of the Wars of Succession in the former Yugoslavia. Soon after the war ended in 1995, many displaced Croats were

repatriated through the auspices of the UNHCR and other domestic and international agencies. The repatriation of Croatian refugees thus differs from the current Croatian imperative to attract Croats from abroad to return to the 'homeland'.<sup>4</sup>

The Croatian Ministry of Interior retains responsibility for Croatian citizenship through domestic institutions such as police departments/stations (where Croats can register) or in cooperation with public administration offices or the municipal authority of the city of Zagreb where certificates of citizenship (*domovnica*) are issued. The Ministry itself has no department or division, programs or mechanisms specifically dedicated to Croats abroad.

With regards to the consular network, the Ministry of European and Foreign Affairs currently operates 56 embassies and 102 consulates.<sup>5</sup> Because of the centrality of diaspora Croats to the nation-building priorities of the state, additional protections are built which address the particularities of the three designations of Croats abroad discussed above (Croats from Bosnia and Herzegovina, Croatian diaspora and Croatian national minorities).

Mobile consular services (*poslanstvo*) and events for Croats abroad are held sporadically in different locations which have no permanent consular missions (*stalne misije*). Consular Days (*konzularni dani*) are organized by the consul general of the RC in each country where they are posted. Notifications and schedules for events, usually held at Croatian community organizations or Croatian Catholic parishes abroad, are announced via embassy and Ministry of Foreign and European Affairs websites. Officially, they are responsible for the same services as permanent missions. The terminology used for mobile consular services is especially unclear: in the Law on Foreign Affairs there is no information on how they differ in their functions from permanent missions.

Honorary consulates are present in those countries or regions where the establishment of a permanent mission would be too costly but the ministry has identified the need for information, emergency assistance or where the ministry deems that the presence of an honorary consulate is important in building friendly relations with another state.

Next to CSOCA and the consular network, two additional institutions are worth mentioning. First, the Committee of Croatian Parliament on Croats Outside the Republic of Croatia is a Government advisory committee of the Croatian *Sabor* or Parliament, consisting of 11 Members of Parliament and four representatives from among Croatian public officials, scholars, and professionals. The Committee cooperates with the CSOCA, monitors the implementation of policies and procedures pertaining to the legal status of Croatian communities and minorities in other countries, and proposals to protect their rights and preserve their national identity. These do not significantly influence the legislation in the RC. Second, the Council of the Government of the Republic of Croatia for the Croats outside the Republic of

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<sup>4</sup> cf. <http://www.refworld.org/pdfid/4c57cc2fd.pdf>. Accessed 30 June 2018.

<sup>5</sup> <http://www.mvep.hr/en/diplomatic-directory/diplomatic-missions-and-consular-offices-of-croatia/>. Accessed 18 March 2018.

Croatia is also an advisory body of the Government of the RC that provides assistance in creating and implementing policies, activities and programs concerning Croats abroad. Amongst the representatives of state bodies and institutions, the Catholic Church and civil society organisations, the Council consists of representatives of Croats abroad via associations, organizations, and institutions identified as significant in diaspora communities. This consultative body is appointed by the Croatian Government and has a four-year mandate. The composition of the body includes 17 representatives of Croatian minorities, nine from Bosnia and Herzegovina and 29 of diaspora Croats elsewhere. The Council convenes at least once a year in the RC to discuss the implementation of the Act on the Relations between the Republic of Croatia and the Croatians outside the Republic of Croatia,<sup>6</sup> and other related issues and submits reports to the Government. The number of representatives in the five countries of residence for Croats abroad profiled in this chapter are as follow: three representatives of the Croatian minority in Serbia, two from Slovenia, one from Italy, three for Australia, and three for Germany.

In addition of public institutions, a number of non-profit organizations have mandates that are devoted to engaging Croats abroad in the areas of heritage, culture, and education. The Croatian World Congress, for instance, is a non-profit, non-governmental and non-partisan organization with more than 45 chapters worldwide whose mission it is to link all Croats, diaspora associations and institutions outside “the Homeland to create better conditions and greater interests between the Republic of Croatia and diaspora”.<sup>7</sup> There is no formal mechanism by which Croatian authorities consult with the Congress, although they receive the honorary patronage of the President of the RC. Similarly, the Croatian Heritage Foundation (established in 1951 and reorganized in 1990), also a non-profit organization, focuses mainly on activities, programs, and projects related to the preservation and development of the national, linguistic, and cultural identity of Croatians in Croatia and abroad.<sup>8</sup>

To conclude this discussion on infrastructure, it is important to note that the RC’s ability and apparatus to engage with Croats abroad varies according to the main countries of residence of the Croatian diaspora. As important variations exist in terms of legal status of Croatian citizens in these countries (e.g. mobile EU citizens, recognized minority...), different incentives exist for the RC act towards its diaspora.

For instance, in Slovenia and other major EU destination countries such as Germany, the rights of Croatian citizens in those states are naturally subject to the EU framework. Yet, Slovenia and Serbia are both former republics of the Federal Republic of Yugoslavia and, as such, Croats enjoy some form of representation and protection as a national minority in those countries even though Serbia is not part of the EU. Croats in Slovenia have been advocating for the official status as a minority in Slovenia but, to date, this has not been recognized as such. Some have blamed this

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<sup>6</sup>*Zakon o odnosima Republike Hrvatske s Hrvatima izvan Republike Hrvatske.* [www.zakon.hr/z/507/Zakon-o-odnosima-Republike-Hrvatske-s-Hrvatima-izvan-Republike-Hrvatske](http://www.zakon.hr/z/507/Zakon-o-odnosima-Republike-Hrvatske-s-Hrvatima-izvan-Republike-Hrvatske). Accessed 22 March 2018.

<sup>7</sup><http://hsk.hr/>. Accessed 21 July 2018.

<sup>8</sup><http://www.matis.hr/en/>. Accessed 18 August 2018.

on strained relations between Slovenia and Croatia as a result of tensions over the flow of refugees and migrants from, for example, Afghanistan, Syria, Iraq, North Africa and Africa, across Croatia's border to Slovenia as well as disputes over sovereign territory (e.g. the Bay of Piran) which Slovenia, a member of the EU since 2004, used to block negotiations for Croatia's accession to the EU. Although Slovenia's Croats do not have the status of a national minority, they do enjoy minority rights under international legal obligations binding the Republic of Slovenia.<sup>9</sup> The CSOCA recently established a Commission on the Status of Croats in the Republic of Slovenia to ensure the preservation and development of Croatian identity. The Commission consists of representatives of Croats and Croatian institutions and ministries (Ministry of Foreign Affairs and European Affairs, Ministry of Science and Education, Ministry of Culture, and the CSOCA). The President of the Commission is the State Secretary. The first session of the Commission was held in February 2018.<sup>10</sup>

In Serbia, after the Homeland War, Serbian Croats have been designated as a national minority in need of protection. The Law on the Protection of the Rights and Freedoms of National Minorities of the Republic of Serbia, introduced in 2002, guarantees that the Croatian national minority has protection in the areas of language, education, information, culture as well as the ability to participate in decision-making processes in these areas.<sup>11</sup> The Croatian National Council in the Republic of Serbia<sup>12</sup>—a Serbian institution—is the highest representative body of Croats in the Republic of Serbia and consists of 29 members who have a four-year mandate. The president is elected by all members of the Council, while vice presidents are elected on the basis of territorial representation in the Serbian towns of Srijem, Podunavlje, Sombor (in the autonomous province of Vojvodina) and Subotica. However, it is not obligatory for Serbian authorities to consult the Council.

Lastly, Croats in Italy who have lived in the Molise region for centuries, are a recognized linguistic group. Although the Italian Government does not use the term 'minority', Molise Croats receive protection from the Croatian Government in the form of recognition of their cultural identity and the use of the Croatian language.

### 5.2.3 *Key Engagement Policies*

Economic, cultural, and educational policies are traditionally presented as the main areas of engagement with citizens abroad. With regards to economic policies, general proclamations are made by the Government pertaining to the development of programs and policies that would contribute to more successful communication and

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<sup>9</sup><http://www.hrvatiizvanrh.hr/en/hmiu/croatian-minority-in-slovenia/>. Accessed 10 January 2019.

<sup>10</sup><http://www.hrvatiizvanrh.hr/hr/novost/564/odrzana-prva-sjednica-povjerenstva-za-pitanje-statusa-hrvata-u-republi-ci-sloveniji>. Accessed 21 December 2018.

<sup>11</sup><http://www.mvep.hr/files/file/prirucnici/180111-protocol-guide-for-diplomatic-missions-accredited-to-the-republic-of-croatia2.pdf>. Accessed 03 March 2019

<sup>12</sup><http://www.hnv.org.rs/>. Accessed 2 April 2018.



cooperation between RC and Croats abroad in order to facilitate investment in the homeland. This message is ever-present in most of the official acts, strategies, plans or reports that address Croats abroad. Non-governmental organizations, such as the Croatian Canadian Chamber of Commerce based in Toronto, collaborate with the Croatian Canadian Business Network based in Zagreb, to lobby both Canadian and Croatian Governments to generate interest in investment.

Remittances from Croats abroad have been a cornerstone of diaspora-homeland involvement for generations and continue to be broadly encouraged by the Croatian Government. It is estimated that over one billion Euros are sent to Croatia annually,<sup>13</sup> yet there are no specific policies or financial incentives explicitly for Croats abroad, even though diaspora remittances are critical to Croatia's economic stability.

Similarly, there are no specific policies, incentives or support for Croats abroad to purchase real estate in the RC. Citizens and legal persons of the EU may acquire real estate in Croatia under the same conditions as Croatian citizens, with the exception of agricultural land and real estate located in protected areas. Non-EU citizens may acquire real estate in Croatia based on the principle of reciprocity, i.e. under the same rules that apply to Croatian citizens in the foreigner's own country.

Culture and education policies, on the other hand, have traditionally received more attention. The CSOCA concentrates much of its effort in the promotion of Croatian culture and education. The Act outlines the need for dissemination of Croatian content to Croats abroad through the Internet and satellite radio, television, public programming and broadcasting services for Croats outside the RC. The awarding of Croatian language scholarships is also a key priority of the CSOCA strategy. Croatian nationals or their descendants, spouses of friends of Croats and of the RC (who permanently reside outside Croatia) and who have completed secondary school education, are eligible. The program promotes the return of Croatian emigrants and their descendants to the RC through the preservation, nurturing, and promotion of Croatian language and culture. Students are registered at the Faculty of Humanities and Social Sciences in Zagreb (*Croaticum* program), the Faculty of Philosophy in Split (Croatian Centre for Croatian Studies) and the Faculty of Philosophy in Rijeka (Rijeka Croatian School).

The CSOCA also supports Croatian language classes abroad. The Ministry of Science and Education organizes and finances language programs in full or in part in 20 countries worldwide (Argentina, Austria, Belgium, Montenegro, Chile, France, Italy, Ireland, Macedonia, the Netherlands, Norway, Poland, Romania, Russia, Slovakia, Slovenia, Serbia, Switzerland, the United Kingdom, and Canada). The Ministry hires teachers, supports classes financially, provides educational materials and in some countries, with the approval of their education authorities, funds the work of teachers. The latter initiative is geared towards the needs of Croatian national minorities in particular.

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<sup>13</sup> <http://www.tportal.hr/biznis/clanak/povijesni-rekord-imamo-podatke-koliko-su-gastarbajteri-lani-poslali-novca-u-hrvatsku-foto-20171115>. Accessed 11 November 2017.

The CSOCA also awards scholarships for Croatian language courses in RC to: a) Bosnian Croats who reside in Bosnia and Herzegovina and are enrolled in public higher education institutions in Bosnia and Herzegovina or in Croatia; b) Croatian minorities<sup>14</sup> born and residing abroad who are enrolled in public higher education institutions in the RC; c) the Croatian diaspora. For the 2018–2019 year, enrolment quotas were increased to 217 positions for candidates who are members of one of two categories of Croatian subjects abroad: members of Croatian minorities in European countries and Croatian emigrants overseas and European countries and their siblings. Classes in the Croatian language may also be organized and funded in part by Croatian (diaspora) communities and Catholic missions abroad.

A similar call for applications is directed at Croatian emigrants with the goal of enhancing cooperation with Croatian institutions abroad in the fields of culture, education, and science. Eligible applicants include non-profit organizations of Croatian emigrants whose activities and costs are related to support for social, cultural, and artistic endeavours as well as support for publishing and media in the Croatian language. Although there is a variety of programs advertised on the official website of the CSOCA, access to this information is spotty and incomplete. For example, the Croatian version of the website provides only general information, and links to websites of related institutions are often only available in Croatian.<sup>15</sup>

### 5.3 Diaspora Policies and Social Protection in Croatia

This section presents the main findings regarding policies that facilitate access to social protection of Croatians abroad. It begins with a broader discussion regarding the engagement of the home country consular network, diaspora institutions and ministries/agencies with nationals abroad in the area of social protection.

It is important to preface this section with a comment about the state of provision of social benefits for resident Croatians in comparison to those made available for Croats abroad, given that Croatia lags in its responsibilities for social benefits as identified by the European Commission.<sup>16</sup> As Stubbs (2018) argues, the Action Plan for Social Benefits 2017–2020 adopted by the Croatian Government in 2018 as part of the National Reform Programme “does not contain any commitment to improving the adequacy or coverage of benefits .... nor any proposal to reduce regional inequalities across Croatia. At the moment, the Government’s priorities appear to focus on war veterans and their families and demographic renewal”. This

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<sup>14</sup>Austria, Bulgaria, Montenegro, the Czech Republic, Italy, Kosovo, Macedonia, Hungary, Romania, Slovakia, Slovenia and Serbia.

<sup>15</sup><http://www.hrvatiizvanrh.hr/en>. Accessed 11 February 2019. The author’s search revealed that the website lacks content and has no available official documentation or information attached in English.

<sup>16</sup>European Commission (2018), Staff Working Document Country Report Croatia, SWD 209 final.

assessment underscores deficiencies in the ability or political will of the Croatian Government to provide a robust system of social protection for Croats abroad.

The CSOCA, in coordination with ministries in Croatia and its embassies and consulates, maintains responsibility for developing policies and programs related to key areas of social protection for Croats abroad. In some cases, these may diverge depending on the tripartite designation of Croats abroad (see above). These are key, as the needs of each designated group is seen as unique by the CSOCA. Thus, for example, as Croats in Bosnia and Herzegovina are the smallest (17%) of the three constituent peoples in Bosnia and Hercegovina (Serbs, Bosniaks and Croats) as a result of the governance criteria of the Dayton Peace Agreement of 1995, and Croats are therefore deemed to be vulnerable. Croatian minorities in Serbia and Slovenia, also former Yugoslav states, are also designated as constituents who require Croatian state protection. The provision of services then differs based on residence (cf. Stubbs and Zrinščak 2015, a seminal study of social policy in Croatia).

### *5.3.1 Unemployment*

In so far as unemployment is concerned, Croatia's Law on Employment Mediation and Unemployment Rights states that: "The Croatian Employment Service shall perform the employment of Croatian nationals abroad and exercise of their rights". Furthermore, "The Croatian Employment Service carries out mediation in employment, counselling and information on employment opportunities and education and provides other information on the labour market in the Member States of the European Union, the European Economic Area and the Swiss Confederation through the European Network of Services (EURES)".<sup>17</sup> However, the Croatian Employment Service does not assist in accessing unemployment benefits or in helping in the search for employment.

All workers for whom an employer has paid employment contributions or self-employed persons who have paid their contribution to the employment insurance in the RC, are entitled to benefits via the Croatian Employment Service. To receive this entitlement, one needs to have residence and working permits along with an OIB (personal identification number, tax administration through the Ministry of Finance), and have spent working at least nine of 24 months in an EU country provided that employment was not terminated voluntarily or through fault of the employee. The amount of compensation depends on the wages one received before termination. Accordingly, it can be argued that no specific provision exists for Croats residing abroad beyond the provisions that derive from EU coordination in this area.

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<sup>17</sup> [www.hzz.hr](http://www.hzz.hr). Accessed 20 March 2018.

### 5.3.2 *Health Care*

Provisions for health care for citizens abroad are within the mandate of the Ministry of Foreign and European Affairs. In the event of accident or illness, consular offices and/or diplomatic missions of the RC are responsible for informing both health care institutions and Croatian citizen's family of the details of the health care that is required. In case of severe health conditions, consular officers may provide immediate evacuation or return of the citizen to the home country. The Croatian Health Insurance Fund (*Hrvatski zavod za zdravstveno osiguranje*) covers registered Croatians who must have permanent residency in the RC to assist with health-related issues in cases of temporary incapacity for work due to sickness or maternity, and health care related issues in addition to short-term benefits for work injury and occupational illness. In line with EU regulations in this matter, the rights to social security (health care, maternity and parental benefits, family benefits, unemployment benefits, pension insurance rights) of Croatian nationals in other EU countries are covered by the system of the state in which they are working or living (i.e., have residency).

Looking at destination country specific policies, a bilateral agreement between the RC and the Republic of Serbia guarantees the right to health insurance and health care: "Diplomatic missions and consular posts of the Contracting States may, without special authorization, directly address the competent authorities, liaison bodies and the competent authorities of the other Contracting State in order to protect the interests of their nationals."

### 5.3.3 *Pensions*

Pensions are made available for Croats abroad through the Croatian Pension Insurance Institute (CPII) (*Hrvatski zavod za mirovinsko osiguranje*) and in conjunction with CSOCA and the Ministry of Foreign and European Affairs. Applications must be submitted for verification by Croatian diplomatic and consular representatives, notaries or administrative bodies in the country of residence. Again, different requirements are put in place for the three types of Croatians abroad where bilateral agreements between states exist, as is the case with Serbia. The CPII coordinates with relevant ministries and institutions (in the RC, EU, and internationally) regarding the protection of the legal pension status of Croats abroad. According to the CSOCA and the Act: "Pursuant to the international agreements on social security concluded and assumed, the Office will negotiate models for solving pension and health insurance rights for returnees and immigrants. Negotiations on the conclusion of new or existing international agreements with countries with which the RC has not concluded or are insufficient, will be encouraged."<sup>18</sup> Australia

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<sup>18</sup><http://www.mirovinsko.hr>. Accessed 11 October 2018.

and the RC negotiated a social security agreement in 2004. Australian Croats can access both Australian and Croatian pension plans. For example, the Australian legislation requires a person to have a minimum of 10 years of Australian residence before they can claim an Age Pension or Disability Support Pension. “Under the Agreement, Australia and Croatia share the responsibility for paying pensions to people who would not otherwise be entitled because they do not have enough residence in Australia or sufficient periods of insurance in Croatia. It also helps people who could not otherwise claim because they are living abroad”.<sup>19</sup> Croatian domestic legislation currently requires a person to have at least 17 years of qualifying periods of insurance to be eligible for a retirement pension. “If a person has only 10 years of contributions, he/she would be able to count any periods of Australian working life residence that they have as periods of contributions to meet the minimum qualifying period.”<sup>20</sup>

The Agreement allows people to use periods of Australian working life residence in order to meet the minimum periods of insurance required to qualify for Croatia pensions covered by the Agreement.

The Croatian Government has also negotiated Avoidance of Double Taxation on Pensions with 62 countries to date. “In most of the double taxation treaties applied by the Republic of Croatia, the rule is that pensions are taxed in the State of residence.”<sup>21</sup>

### 5.3.4 *Family-Related Benefits*

The social welfare of families of Croats abroad is also within the jurisdiction of consular offices (via the Ministry of Foreign and European Affairs). Their responsibility to attend to the social welfare of families specified by law extends to providing legal assistance to citizens of the RC in areas of labour, social and other rights and interests in the receiving state in their consular area. Beyond this, there is little specific information available in the provision of benefits. Croatian citizens who reside abroad are not entitled to child allowances according to the national legislation. However, Croats residing in EU Member States and are temporary or permanent residents in the RC and employed abroad by a foreign employer who does not provide the health and social insurance, qualify for benefits and are financed through state budget. The RC guarantees the implementation of all bilateral and multilateral international agreements protecting the rights of Croats abroad. As in the cases of the Croatian minorities in Slovenia and Serbia where bilateral agreements exist, provisions differ. Lastly, specific policies related to the

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<sup>19</sup><http://dss.gov.au>. Accessed 31 March 2019.

<sup>20</sup><http://dss.gov.au>. Accessed 30 March 2019.

<sup>21</sup><https://www.porezna-uprava.hr/bi/Stranice/Dvostruko-oporezivanje.aspx>. Accessed 30 March 2019.

repatriation of deceased individuals include the issuing of permits for the transportation of human remains and burial in Croatia.

### 5.3.5 *Economic Hardship*

As with family benefits, Chapter I of the Law on Foreign and European Affairs of the Republic of Croatia, referring to the jurisdiction of consular offices with regard to nationals abroad, states that they must: “perform(s) administrative affairs, notary affairs, affairs of the interior, defense and issues of registry, social welfare specified by law, and provides legal assistance to citizens of the Republic of Croatia in the exercise of their labor, social and other rights and interests in the receiving State in their consular area”.<sup>22</sup> The diplomatic missions and consular offices of the RC coordinate and collaborate with the Welcome Office of the CSOCA. The Ministry is also charged with the responsibility of providing loans to citizens of the RC in order to facilitate the return of Croatian citizens when they find themselves in distress abroad. Other than in cases of facilitating citizens return to the home country, there is no further information regarding possible cash benefits (loans) provided by consular offices of the RC.

## 5.4 Conclusions

The Croatian context illustrates the complexity of relations between countries that have undergone recent, radical political changes and develop or maintain relationships with their co-nationals/ethnics abroad. Croatian policies concerning Croats abroad are, in some ways, a moving target as they are continuously amended in response to shifts in geopolitics, governmental priorities, and political regimes. For example, in December 2018, the Croatian Government once again amended the Citizenship Act to ease citizenship requirements for Croats abroad by omitting generational and language restrictions. This move was largely in response to the challenges of demographic decline due to a steep rise in the rate of emigration from Croatia since entering the EU in 2013. This is consistent with the history of a nation that has been in the cross hairs of major regional political upheavals.

For Croatians, centuries of wars, invasions and empires, and shifting borders and boundaries, not to mention a long history of emigration, have created the conditions for migration, citizenship and belonging. The past has included identifications with the Austro-Hungarian Empire, pan-Slavism, and Yugoslavism, ambivalence concerning forms of ethnic, religious, or political identification. These have been compounded by experiences of marginalization or acceptance in the countries and

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<sup>22</sup> [www.mvep.hr](http://www.mvep.hr). Accessed 11 March 2018.

regions where they fled, emigrated, and settled. The conditions for social protection of Croats abroad are in large part a reflection of these histories of migration.

The Croatian diaspora has been a key player in Croatia's path to independence in 1990 and the changes that have transpired since then. In the 25 years since Croatia achieved independence, the nature of transnational connections between Croats at home and abroad has shifted dramatically to include a wide spectrum of social, political, and economic entanglements that differ markedly from the Yugoslav socialist period (Winland 2007).

Beginning with the establishment early on of several ministries (the short-lived Ministry of Return and Immigration in the 1990s) devoted to diaspora and return, the Government of Croatia, specifically the HDZ which has been in power for most of the post-independence period, has placed the diaspora at the centre of its policy and decision-making framework. The establishment of the (sub)ministerial incarnation, the CSOCA and other non-governmental bodies and associations that address the needs and protection of Croats abroad, underscores the degree of importance that the Croatian state places on its relations with non-resident Croats.

However, despite the stated intentions of the CSOCA ostensibly devoted to the recognition and needs of Croats abroad, the actions of the Croatian Government do not meet the standards necessary to provide the resources required or the commitment to ensuring that Croats abroad receive adequate levels of protection or enticements to invest or return. To a certain extent, this can be attributed to political expediency or will, bureaucratic inefficiencies, and/or the limited power that the Croatian Government has to exercise authority in foreign contexts.

The five areas of protection outlined in this chapter also demonstrate the barriers that the Croatian Government faces in its ability to intervene in the affairs of compatriots abroad depending on where they reside and their citizenship status. Here, context is key. For example, as an officially designated minority, Croats in Serbia are entitled to services and protection that Croats in EU countries are not. However, Croats who reside in EU countries and are EU citizens have access to social protection and do not rely on Croatia for those benefits that they can easily access in the EU. Although Slovenia and Serbia are both post-Yugoslav Republics, Serbian Croats have official minority status, while Croats in Slovenia do not. Slovenia is also a member of the EU. Croatia's ability to influence the Slovenian policy towards Croats abroad is limited in this case. Australian diaspora Croats are citizens of Australia and, although they have limited access to Croatian Government social protection beyond pension benefits, Australian Croats who can also become dual citizens of Croatia do not, by and large, rely on the social protection provisions of the Croatian Government.

The attention paid to Croats abroad thus remains a function of legislation favourable to Croats abroad that was passed shortly after the Croatian independence. Despite the efforts of opposition parties to mitigate the influence of diaspora Croats on homeland affairs, the large number of Croats abroad, high rates of emigration from Croatia, and the need for diaspora investment continues to influence the push towards developing strategies to generate the interest of Croats abroad in the

homeland. Nonetheless, the focus is limited mainly to maintaining connections through cultural exchanges, commemorations, citizenship, and the (uneven) provision of social protection. Together these inform the uneven development of strategic initiatives and policies that serve Croats abroad.

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# Chapter 6

## Diaspora Policies, Consular Services and Social Protection for Cypriot Citizens Abroad



Angeliki Konstantinidou

### 6.1 Introduction

This chapter explores the policies and programmes that Cyprus implements for its diaspora. The aim of the chapter is two-fold: first, to provide a broader discussion regarding general diaspora policies related to financial, political, citizenship and foreign affairs matters; and secondly, to discuss the key engagement policies that the country promotes in the field of social protection of its diaspora population. To do so, the first part of the chapter presents the general characteristics of the Cypriot diaspora in a broader historical context. Such historical background is particularly important as it has influenced the style of diaspora engagement promoted at the national level in Cyprus as well as the content of the policies implemented for non-resident citizens. The chapter shows that, for historical reasons, Cyprus has focused its actions mainly towards its diaspora in Greece and the United Kingdom (UK). The second part of the chapter examines the key engagement policies that Cyprus has adopted, including its diaspora infrastructure. Finally, the last part is devoted to the social protection policies that the country has put forward in the areas of pensions, unemployment, family benefits, health care, and guaranteed minimum income.

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## 6.2 Diaspora Characteristics and Home Country Engagement

This section presents the main historical features of the Cypriot emigration, its current characteristics and the homeland infrastructure and policy responses to deal with citizens abroad. As explained, the political and historical context are key elements in the understanding of the homeland-diaspora relation for the Cypriot case.

### 6.2.1 *The Cypriot Diaspora and its Relations to the Homeland*

The geopolitical situation of Cyprus influenced both the destination countries of the Cypriot diaspora as well as the type of policies that Cyprus adopted for this specific segment of the population. Currently, the Cypriot diaspora includes around 160,000 individuals living outside the geographical borders of the country, representing 14% of the Cypriot population.<sup>1</sup> In addition, approximately 190,000 foreigners are settled in Cyprus, representing 16% of the population. Thus, it can be argued that Cyprus is both an emigration and an immigration country (Demetriou 2003; Teerling and King 2011).<sup>2</sup> While the majority of the country's diaspora is settled in European Union (EU) Member States (64%), the UK and the United States of America (USA) are the two most frequent destinations. According to OECD data, approximately 76,000 Cypriots are settled in the UK, while around 30,000 Cypriots are based in the USA. Other selected countries with significant Cypriot populations are Greece (21,478), Australia (17,945), Turkey<sup>3</sup> (4362), and Canada (3600).<sup>4</sup>

Even before becoming an independent state, Cyprus was an emigration country. It was a crown colony of Great Britain from the late nineteenth century until 1960. During the difficult economic times of the 1940s and the 1950s, Cypriots emigrated

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<sup>1</sup>These shares were calculated based on two UN population datasets. For emigrants and immigrants, the dataset "Trends in International Migrant Stock: the 2017 Revision" was used, while the total population of Cyprus is drawn from the "World Population Prospects 2019: Online Edition". For both datasets, the reference year is 2017. The UN data referring to Cyprus includes both the Republic of Cyprus as well as the Turkish Republic of Northern Cyprus (TRNC).

<sup>2</sup>Idem 1.

<sup>3</sup>There is an ambiguity regarding the Cypriot population residing in Turkey. The explanatory note of the OECD DIOC-E 2010/11 metadata states that the statistics referring to Cyprus include only the southern part of the Island and that there is not a single authority that counts both sides of the island. The Turkish Statistical Institute data does not mention the Republic of Cyprus (Southern), except for the TRNC. Hence, the statistics referring to Turkey as a destination may not be fully accurate due to the lack of data standardisation and available sources (see also Teerling and King 2011).

<sup>4</sup>The OECD data refer to populations aged 15+. OECD (2011). Database on Immigrants in OECD and Non-OECD Countries, 2010/11 (DIOC-E 2010/11, Labour Force Status). <http://www.oecd.org/els/mig/dioc.htm>. Accessed 13 March 2019.

to English-speaking countries- in particular, the UK (Demetriou 2003; Teerling and King 2011). After Cyprus gained independence, a serious constitutional crisis emerged. There was disagreement over irredentism between two opposing groups, the Greek Cypriots and the Turkish Cypriots. The result of the crisis was the partition<sup>5</sup> of the island in 1974 (Mallinson 2005), along with another emigration wave (Bertrand 2004). A consequence of the partition was the displacement of thousands of people, some of whom chose to emigrate mainly to Greece and the UK (Teerling and King 2011). The UK is the most preferred destination for Cypriots, mainly due to past colonial ties. Similarly, other Commonwealth nations such as Canada and Australia have traditionally attracted Cypriots. Greece is also an important destination given the political, historical, cultural, linguistic, and religious bonds shared by the two countries. This bond is also visible in the description of emigration to Greece as a movement to the “motherland” (Bryant 2006). The USA has been a traditional country of destination for Cypriots after the Second World War (Demetriou 2003).

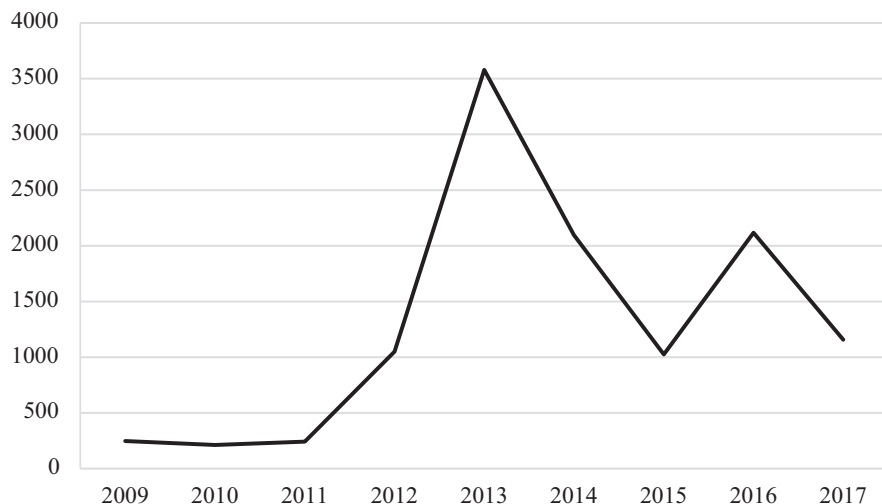
Until the 1990s, Cyprus was considered an emigration country, but the political stabilisation and economic development that occurred at the end of the twentieth century turned the country into an immigration country (Trimikliniotis 1999; Trimikliniotis and Demetriou 2007). Nevertheless, since the 2008 financial turmoil, emigration from Cyprus gained a new speed. Indicative of this situation is the increasing outflows of Cypriot citizens after 2011. Figure 6.1 shows that the outflows of emigration quadrupled between 2011 and 2012, when the financial crisis hit Cyprus.

## 6.2.2 *Diaspora Infrastructure*

This section shows that Cypriot authorities are eager to engage with their diaspora. This is mainly because they consider the diaspora as a critical actor for promoting and raising awareness on the “Cypriot Issue” abroad (Demetriou 2003). This

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<sup>5</sup>Due to political instability and war, the island was de facto split in two sides, the Greek-Cypriot or the Republic of Cyprus, and the Turkish-Cypriot, also known as TRNC. The Republic of Cyprus has de jure sovereignty over the territory of the island, whereas the TRNC is only recognised by Turkey (James 1989; Mallinson 2005). Currently, the Republic of Cyprus is controlling 58% of the island territory, while TRNC covers 37% and it is self-governed. The remaining 5% of the territory is the buffer zone (also known as the Green Line) of the UN that splits the two sides, also including the British military bases (James 1989). This historical reference is important for this chapter, as it provides a key explanation for the lack of diaspora policies and diplomatic representation in Turkey. The Cypriot issue largely remains unsolved and the Cypriot population that currently resides in TRNC is very small, of approximately 400 individuals according to Cypriot authorities (Office of the Presidential Commissioner 2019; Γραφείο Επιτρόπου Προεδρίας 2019). Cyprus still pursues a policy line to safeguard the rights of this small population and to solve the pending issues of the lost properties that were evacuated due to the conflict and the subsequent reimbursement of those who lost their properties due to the partition of the island.



**Fig. 6.1** Outflows of Cypriot citizens, 2009–2017 (Source: Own elaboration with Eurostat data. Eurostat 2018 (migr\_emi1ctz))

interest from the homeland does not translate into a dedicated ministry or sub-ministry assuming responsibility for diaspora-related matters, although there is a developed infrastructure to deal with diaspora issues.

The main institution in Cyprus responsible for overseeing issues related to the diaspora and returnees is the Service for Overseas and Repatriated Cypriots/*Υπηρεσία Αποδήμων και Επαναπατρισθέντων* (SORC). Created by Archbishop and first President of the Republic, Makarios III, in 1976, this service was under the jurisdiction of the Ministry of Presidency until 1981, being transferred to the auspice of the Ministry of Foreign Affairs (MFA) after this date. Since 2016, SORC is part of the Presidency of Cyprus under the supervision of the Presidency Commissioner.<sup>6</sup> The target populations of this institution are all Cypriots living abroad, with and without the intention to return. Its services include systematic communication with overseas Cypriots (including aiding in education or other issues), the organisation of exhibitions and local/regional/world conferences on diaspora-related matters, and the publication of the bimonthly newsletter “Our Cyprus/*Η Κύπρος μας*” for overseas and repatriated Cypriots. SORC also assists overseas Cypriots in their efforts to preserve and promote the language, culture, history, and tradition of Cyprus abroad, organises visits to Cyprus, supports youth programmes, attracts investments from overseas Cypriot entrepreneurs, and promotes Cyprus as a business centre. The service also assists repatriated and overseas Cypriots through coordination with other governmental departments, equips Cypriot associations and schools abroad with material about the country’s history and culture, and provides support for cultural

<sup>6</sup> [http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/page02c\\_gr/page02c\\_gr?opendocument](http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/page02c_gr/page02c_gr?opendocument). Accessed 5 March 2020.

activities. Recently, SORC has sought to support existing schemes and organisations for the diaspora youth by implementing exchange programmes, internships, and scholarships for Cypriots abroad.<sup>7</sup>

SORC also published a series of handbooks for the overseas and repatriated Cypriots/*Οδηγός Αποδήμων και Επαναπατρισθέντων Κυπρίων*, in both Greek and English, aiming to inform Cypriots abroad on the procedures for returning to Cyprus. The handbooks also contain useful information for those abroad on how to deal with issues regarding their rights in Cyprus (Ministry of Foreign Affairs 2009; Υπουργείο Εξωτερικών 2010; Γραφείο Επιτρόπου Προεδρίας 2019; Office of the Presidential Commissioner 2019). In 2014, the Cypriot Ministry of Labour, Welfare and Social Insurance (MLWSI) published a booklet on how repatriated Cypriots can access social security (Υπουργείο Εργασίας, Πρόνοιας και Κοινωνικών Ασφαλίσεων 2014).

Besides this service, Cyprus has a quite dense network of embassies, high commissions, consulates and honorary consulates around the world. The Republic of Cyprus has more than 150 diplomatic missions abroad and more than 80 honorary consulates, operating under the auspice of the Ministry of Foreign Affairs.<sup>8</sup> There are no Cypriot diplomatic missions in Turkey or the TRNC, due to the ongoing conflict.<sup>9</sup>

Determining the missions of Cypriot consulates is a difficult task due to the absence of a national consular law. The only relevant legislation in this regard are the laws implementing the Vienna Convention on Diplomatic Relations (1968)<sup>10</sup> and on Consular Relations (1976)<sup>11</sup> (Constantinides and Combos 2010). The competences of the honorary consulates, although not fully specified, are merely administrative and thus honorary consulates are less active than regular consulates and diplomatic missions (personal communication with Cypriot MFA). The consular services offered include the certification of documents to be used in the host country or in Cyprus, assistance with visas and residence permits, citizens' registration and

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<sup>7</sup> [http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/page02b\\_gr/page02b\\_gr?opendocument](http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/page02b_gr/page02b_gr?opendocument). Accessed 5 March 2020.

<sup>8</sup> All diplomatic missions are listed on the MFA website: [http://www.mfa.gov.cy/mfa/mfa2016.nsf/mfa50\\_gr/mfa\\_50\\_gr?OpenDocument](http://www.mfa.gov.cy/mfa/mfa2016.nsf/mfa50_gr/mfa_50_gr?OpenDocument) and [http://www.mfa.gov.cy/mfa/mfa2016.nsf/mfa52\\_gr/mfa52\\_gr?OpenDocument](http://www.mfa.gov.cy/mfa/mfa2016.nsf/mfa52_gr/mfa52_gr?OpenDocument). Accessed 11 March 2019.

<sup>9</sup> The TRNC Statistical Yearbooks only provide information regarding the number of foreign arrivals by nationality. The Yearbooks of 2011, 2015, and 2017 indicate that, during the decade 2007–2017, the arrivals of Greek Cypriots (South Cypriots in the TRNC data) increased from 495 individuals in 2007 to 1798 in 2012 to 2228 in 2017 (Başbakanlık 2017, 2018; Devlet Planlama Örgütü 2015). Nevertheless, these figures should be interpreted with caution.

<sup>10</sup> Law No. 40/1968/ *Νόμος Ν. 40/1968: Ο περί της Συμβάσεως της Βιέννης του 1961 περί Διπλωματικών Σχέσεων (Κυρωτικός) Νόμος του 1968. Επίσημη Εφημερίδα της Δημοκρατίας Ν. 646 της 12<sup>ης</sup> Απριλίου 1968.*

<sup>11</sup> Law No.7.1976/ *Νόμος Ν. 7/1976: Ο περί της Συμβάσεως της Βιέννης περί Προξενικών Σχέσεων (Κυρωτικός) Νόμος του 1976. Επίσημη Εφημερίδα της Δημοκρατίας Ν. 1258 της 27ης Φεβρουαρίου 1976.*

the issuance of passports, ID cards, emergency travel documents, and birth certificates.

In addition to the consular authorities and the Service for the Overseas and Repatriated Cypriots, there are a series of non-governmental organizations, such as the World Federation of Overseas Cypriots (POMAK)/*Παγκόσμια Ομοσπονδία Απόδημων Κυπρίων (ΠΟΜΑΚ)* founded in 1976 (Demetriou 2003).<sup>12</sup> Although it is not a governmental institution, POMAK is worth mentioning as it acts as a coordinating body of all the federations and associations of Cypriots abroad, with lobbying and representative functions. In host countries, POMAK raises awareness about the “Cypriot Issue” and the country’s culture and history, while also encouraging ties between the Cypriot communities all around the globe. It further aims to represent the views of overseas Cypriots to the Cypriot government. A very active branch of POMAK is the Youth of the World Federation of Overseas Cypriots (NEPOMAK) / *Νεολαία Παγκόσμιας Ομοσπονδίας Αποδήμων Κυπρίων (ΝΕΠΟΜΑΚ)*. It connects the young Cypriot diaspora with the homeland by organising different activities ranging from language courses to internships with the Cypriot government.<sup>13</sup> Besides POMAK, there is also the International Coordinating Committee “Cyprus Justice” (PSEKA)/*Παγκόσμια Συντονιστική Επιτροπή Κυπριακού Αγώνα (ΠΣΕΚΑ)*, founded by Makarios III in 1975–1976 to raise awareness abroad about the “Cypriot Issue” and tap into the resources of the diaspora. Its activity, however, appears to have diminished over the years.<sup>14</sup> The timing of the creation of POMAK, PSEKA and SORC is of great significance, as all these institutions were created shortly after the partition of the country. This signalled the need and the willingness of Cyprus to connect with its diaspora after suffering both demographic and financial damages.

A final group of relevant actors that engage with the diaspora are the mainstream Cypriot political parties. They have created structures to maintain a political connection with potential voters abroad. The Progressive Party of Working People (AKEL) / *Ανορθωτικό Κόμμα Εργαζόμενου Λαού (ΑΚΕΛ)* is a radical left-wing party with branches in Greece and the UK. Similarly, the Democratic Rally (DISI) / *Δημοκρατικός Συναγερμός (ΔΗΣΥ)* and the Movement of Social Democracy-United Democratic Union of the Centre (KS-EDEK) / *Κίνημα Σοσιαλδημοκρατών-Ενιαία Δημοκρατική Ένωση Κέντρου (ΚΣ-ΕΔΕΚ)* have two branches each in Greece, while DISI also has another branch in the UK.

<sup>12</sup> See: <http://pomakcyprus.com>. Accessed 11 March 2019.

<sup>13</sup> NEPOMAK targets diasporic youth aged 18–30 who have at least one Cypriot grandparent. It receives financial support from different sources, including the Cypriot MFA. For more information: <https://nepomak.org/about>. Accessed 5 March 2020.

<sup>14</sup> In 2020, PSEKA suspended its activities, website and social media accounts.

### 6.2.3 *Key Engagement Policies*

Despite the diversity of services listed above, it can be argued that Cyprus' diaspora policies respond mainly to two objectives: attracting potential returnees and diaspora investments and raising awareness abroad about the Cypriot conflict. According to Demetriou (2003), Cypriot policy-makers have historically aimed to create a bond with the diaspora and promote a discourse in which the diaspora is an integral part of the homeland even after the first generation. This proactive stance comes with the expectation that the diaspora will act as a lobbying force abroad on the issue of the Cypriot conflict (ibid). To create this bond, numerous initiatives assist the settlement of returnees by offering rent rebates for a year or facilitating the duty-free import of household items (Demetriou 2003; Ministry of Foreign Affairs 2009; Υπουργείο Εξωτερικών 2010; Office of the Presidential Commissioner 2019).<sup>15</sup>

Regarding more conventional consular services that Cyprus offers to its citizens permanently residing abroad or Cypriot travellers, these includes (like in many other cases discussed in this volume): the issuance of birth certificates to minors and adults, the issuance of passports and emergency travel documents, and the certification of public documents. Consulates also provide assistance with applications to acquire the Cypriot citizenship.<sup>16</sup>

A relevant service in the area of social protection concerns the provisions related to the financial assistance for Cypriots abroad in situation of need. Such assistance is provided as long as a relative or friend deposits the amount of needed money at the MFA's Accounting Office, which then forwards it to the person in need. Alternatively, financial assistance can also take the form of a loan that entails a commitment to repayment as soon as the person returns to Cyprus.<sup>17</sup> In the area of health care, consular assistance is limited to offering a contact list of hospitals and doctors.<sup>18</sup> Similar assistance is provided in cases of accidents or emergency, including lists of doctors, hospitals, police, and lawyers.<sup>19</sup> During major crisis situations in the host countries, the consulates are in charge of tracing Cypriot citizens and offering help ranging from medical assistance to repatriation.<sup>20</sup> Consulates can also

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<sup>15</sup>The rent rebate policy seems to have been discontinued in recent years. In 2019, the Cypriot Government was offering rent allowance only to displaced persons/victims (Office of the Presidential Commissioner 2019).

<sup>16</sup><http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/155489ED91614291C225802500387BB1?OpenDocument>. Accessed 8 March 2020.

<sup>17</sup><http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/57948F7899818EDEC22580250037A60D?OpenDocument>. Accessed 11 March 2019.

<sup>18</sup><http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/86F70B8C906C2646C22580250033D031?OpenDocument>. Accessed 8 March 2020.

<sup>19</sup><http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/04410C60166DE6C1C225802500381FB5?OpenDocument>. Accessed 8 March 2020.

<sup>20</sup><http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/0BFD0135B85373D5C22580250037BCD6?OpenDocument>. Accessed 8 March 2020.



help to find a missing person abroad and assist in case of imprisonment by helping citizens to find a lawyer.<sup>21</sup>

One area in which different levels of consular involvement exist across the EU is the repatriation of deceased nationals. In this case, Cypriot consulates can provide a death certificate, initiate the process of contacting the relatives of the deceased in Cyprus, and help with the procedural arrangements for the repatriation of the corpse. Yet, consular services can never cover the expenses for the repatriation of human remains, except in the form of a reimbursable prepayment.<sup>22</sup>

A specificity of Cyprus is that consular services are adapted to the realities met by Cypriots in major destination countries. For instance, consulates operating in Greece, the UK, the USA, Australia, and Canada can inform and assist male Cypriots with military service matters, such as providing a certificate that the person is living abroad, information regarding the military service in Cyprus, or helping them in the process of postponing the military service. In some cases, the consulates assist in providing criminal records. The Cypriot embassy in Athens facilitates the repatriation of Cypriots in Greece in cases of financial, social, or health hardship, in coordination with the authorities of Cyprus.<sup>23</sup> The Cypriot missions in Canada and the USA offer repatriation services and explain the process that must be followed. However, it is not made clear whether repatriation occurs under specific social or economic circumstances. Conversely, because of the strained relations with Turkey, no consular services are offered to Cypriots in that country.

As previously stated, there is a shared perception among Cypriot authorities that the diaspora is an economic asset. Yet, this does not necessarily translate into concrete policies. While it does not target the diaspora exclusively, Cyprus has set up an open scheme for foreign investment that is also open to the diaspora. In 2007, the Cypriot Council of Ministers established the Cypriot Investment Promotion Agency (CIPA),<sup>24</sup> a non-profit agency aiming to promote Cyprus as an international investment centre, support the investors, and lobby for better investment regulations (Boukas and Ziakas 2013). On the other hand, a policy directly targeting the diaspora is the signature of more than 60 bilateral treaties for the avoidance of double taxation.<sup>25</sup>

One area where the Cypriot authorities have been much more active is that of education and culture. Access to language courses is the cornerstone of this policy. The Service for Overseas and Repatriated Cypriots, for instance, offered (until

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<sup>21</sup> <http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/A64585B3925F777EC225802500385E11?OpenDocument> and <http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/FA5531459F237014C225802500377976?OpenDocument>. Accessed 11 March 2019.

<sup>22</sup> <http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/106BEB797AD7213EC225802500375C6B?OpenDocument>. Accessed 11 March 2019.

<sup>23</sup> [http://www.mfa.gov.cy/mfa/Embassies/Embassy\\_Athens.nsf/DMLsocial\\_gr/DMLsocial\\_gr?OpenDocument](http://www.mfa.gov.cy/mfa/Embassies/Embassy_Athens.nsf/DMLsocial_gr/DMLsocial_gr?OpenDocument). Accessed 19 July 2019.

<sup>24</sup> <https://www.investcyprus.org.cy/about/invest-cyprus>. Accessed 11 March 2019.

<sup>25</sup> The list of bilateral treaties for avoidance of double taxation can be found here: <http://mof.gov.cy/en/taxation-investment-policy/double-taxation-agreements/double-taxation-treaties>. Accessed 17 July 2019.

recently) the on-line platform/programme Filoglossia/*Φιλογλωσσία* for Greek language courses.<sup>26</sup> The Cypriot government also offers scholarships to Cypriots from the diaspora to study in universities in Cyprus.<sup>27</sup> Most importantly, however, the Cypriot Ministry of Education and Culture (MOEC) and the Cypriot Educational Mission/*Κυπριακή Εκπαιδευτική Αποστολή* (KEA) have supported, since 1977, a network of Greek Schools Abroad/*Ελληνικά Παροικιακά Σχολεία* (EPS/ΕΠΣ) targeting Greek-speaking pupils.<sup>28</sup> More than 50 schools in the UK teach young children the Greek language, history, religion, geography, music, and dance. MOEC financially supports schools by providing books, educational material, and teachers.<sup>29</sup> These schools, along with those established and maintained by Greek-lead initiatives, are managed by the Coordinating Committee of Greek Educational Bodies in the UK/*Ενιαίος Φορέας Ελληνικής Παροικιακής Εκπαίδευσης*, presided and overseen by the Archbishop of Thyateira and Great Britain.<sup>30</sup> A related policy of SORC and MOEC is the organization of summer camps for the youth diaspora (up to the fourth generation), offering Greek language classes and information about the country.<sup>31</sup> Furthermore, NEPOMAK supports two programmes, “NEPOMAK Discover Cyprus Programme”<sup>32</sup> and “NEPOMAK Cyprus Culture Tour”.<sup>33</sup> The former one targets young Cypriots abroad aged 18–22, and its main aim is to introduce them to the Cypriot culture, history, and language. The latter programme is for Cypriots abroad aged 23–30, and it aims to forge relations between Cyprus and the diaspora. Both initiatives are funded by NEPOMAK. Another noteworthy initiative is “The house of Cyprus/*Το σπίτι της Κύπρου*”, hosted by the Cypriot embassy in Athens, which promotes both Cypriot culture and collaboration between the local Greek and Cypriot authorities and organisations.

<sup>26</sup> Filoglossia is no longer available from the SORC, nevertheless it is still available via the Consulate General of Greece in New York (<http://www.xanthi.ilsp.gr/filog/> Accessed 8 March 2020). Also, Kypros-Net (a USA-based non-profit organisation founded by Cypriots abroad) in collaboration with the Cypriot Broadcasting Cooperation offers an on-line Greek course (<http://kypros.org/LearnGreek/>. Accessed 8 March 2020).

<sup>27</sup> [http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/pc02\\_gr/pc02\\_gr?opendocument](http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/pc02_gr/pc02_gr?opendocument). Accessed 8 March 2020. In collaboration with the Open University of Cyprus and SORC, NEPOMAK also offers two courses for its members on Greek language and Cypriot history. The fees are covered by the Office of the Presidential Commissioner for 15 NEPOMAK members.

<sup>28</sup> <http://kea.schools.ac.cy/index.php?id=index>. Accessed 12 March 2019.

<sup>29</sup> <http://www.moec.gov.cy/dde/organogramma.html>. Accessed 8 March 2020.

<sup>30</sup> <http://www.thyateira.org.uk/co-ordinating-committee-of-greek-educational-bodies-in-u-k/>. Accessed 25 April 2019.

<sup>31</sup> <http://www.moec.gov.cy/dde/organogramma.html> and [http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/hcayprogram\\_gr/hcayprogram\\_gr?opendocument](http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/hcayprogram_gr/hcayprogram_gr?opendocument). Accessed 4 March 2020.

<sup>32</sup> [http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/ndcpprogram\\_gr/ndcpprogram\\_gr?opendocument](http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/ndcpprogram_gr/ndcpprogram_gr?opendocument). Accessed 8 March 2020.

<sup>33</sup> [http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/ncctprogram\\_gr/ncctprogram\\_gr?opendocument](http://www.presidentialcommissioner.gov.cy/anthropos/anthropos.nsf/ncctprogram_gr/ncctprogram_gr?opendocument). Accessed 8 March 2020.

Cyprus' citizenship policies have gained attention in recent years because of an investor citizenship programme introduced in 2014 to facilitate access to citizenship for individuals making an investment in Cyprus (Džankić 2015).<sup>34</sup> For the diaspora, however, the critical element of the citizenship legislation—that combines elements of *jus solis* and *jus sanguinis*—is that all persons of Cypriot descent are entitled to apply. Cypriot descent, however, is vaguely defined as a person born in Cyprus and whose parents ordinarily resided in Cyprus at the time of birth (Trimikliniotis 2015). Citizens of the UK or Commonwealth countries who are of Cypriot descent and reside/resided in Cyprus for a continuous period of 12 months or serve at the civil or public service in Cyprus can apply for citizenship via registration (Trimikliniotis 2015). One additional consequence of the focus on descent in the citizenship law is to prevent Turkish-Cypriots from accessing the Cypriot nationality.

As for the engagement policy in the area of electoral rights, it is worth mentioning that, unlike most EU citizens, Cypriots residing abroad permanently do not have voting rights in the national legislative elections in Cyprus (nor in local elections) (Trimikliniotis 2018). Only specific categories of citizens residing abroad temporarily (civil servants, students, businesspersons, diplomats, etc.) have the right to vote from abroad in national and presidential elections and referenda,<sup>35</sup> provided that they have not lost their voting rights due to criminal convictions. In such cases, voter registration from abroad is done via the Electoral Service of the Ministry of Internal Affairs or via the consulates (Trimikliniotis 2018). To cast a ballot, voters can either return to Cyprus or vote in polling stations abroad. Such polling stations can only be set up when at least 30 people are registered to vote abroad for legislative elections (50 people for presidential elections) (Charalambidou 2013; Trimikliniotis 2018). Despite these restrictions around the active voting rights of citizens residing permanently abroad, passive electoral rights are not tied to residence.

### 6.3 Diaspora Policies and Social Protection in Cyprus

As mentioned in the previous section, Cypriot consulates conduct a series of administrative functions (e.g. notarisation of documents), which may indirectly allow access to home or host country social benefits. This section shows that, while there

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<sup>34</sup>The amount required for the investment varied over the years. In 2016, the amount has been set at 2 million euros: <http://www.moi.gov.cy/moi/moi.nsf/All/36DB428D50A58C00C2257C1B00218CAB>. Accessed 9 March 2020. After the events of late 2019 when the citizenship criteria were deemed flawed, the scheme was scheduled to go through further revisions: <https://www.euractiv.com/section/justice-home-affairs/news/cyprus-plan-to-strip-citizenship-to-golden-passport-holders-stalls-in-legal-vacuum/>. Accessed 9 March 2020.

<sup>35</sup>So far, no referenda has been held in Cyprus.

are no special social protection programmes for the diaspora, some relevant ad-hoc schemes targeting Cypriots in the most important destination countries do exist.

An additional cornerstone of Cyprus' policies for citizens abroad in the area of social protection is the signature of Bilateral Social Security Agreements (BSSAs) which ensure that citizens of the signatory parties have equal treatment and access to different social security provisions.<sup>36</sup> Although the list of BSSAs includes agreements signed with EU Member States, the latter agreements are no longer in force due to the EU Directives 833/2004 and 987/2009 on the coordination of social security for mobile EU citizens. Furthermore, Cyprus has signed BSSAs with two of the top diaspora destinations, Australia and Canada.

### 6.3.1 Unemployment

As EU citizens, Cypriots who move to another Member State benefit from the EU legislation on the portability of unemployment benefits (Koutsampelas 2020). Beyond this, the Cypriot Ministry of Labour, Welfare and Social Insurance (MLWSI) and, in particular, the Department of Labour, offers limited services to nationals abroad. While the BSSAs can potentially cover the unemployment-related benefits of those abroad, only the BSSA signed with Serbia specifically includes the area of unemployment in its scope.

Looking at pre-departure policies, there is no targeted scheme on how to prepare the Cypriots who wish to work abroad or how they can claim unemployment benefits from abroad, with the exception of the EURES website. In terms of skills recognition, there is the Cyprus Council of Recognition of Higher Education Qualifications (KYSATS)/ *Κυπριακό Συμβούλιο Αναγνώρισης Τίτλων Σπουδών (ΚΥΣΑΤΣ)*.<sup>37</sup> The latter also assists with the accreditation of degrees awarded from abroad and helps students find programmes of study in the country or abroad.

### 6.3.2 Health Care

Beyond EU legislation, Cypriots abroad receive very limited support from their homeland in the area of healthcare, the one provided from the general scheme of the consular services described above. Cyprus' policies for citizens abroad are for specific diasporic communities such as the one in Greece. The Cypriot embassy in Greece offers special provisions on health-related issues to both Cypriots residing

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<sup>36</sup>Overall, Cyprus has signed 13 BSSAs with 12 countries (one BSSA is signed with Quebec), out of which seven with EU/EEA countries (replaced by the EU Directives 833/2004 and 978/2009). The full list of BSSAs can be found here: [http://www.mlsi.gov.cy/mlsi/sid/sidv2.nsf/page92\\_gr/page92\\_gr?OpenDocument](http://www.mlsi.gov.cy/mlsi/sid/sidv2.nsf/page92_gr/page92_gr?OpenDocument). Accessed 26 April 2019.

<sup>37</sup><http://www.kysats.ac.cy/index.php/el/>. Accessed 11 March 2019.

in Greece and Cypriots residing in Cyprus who need to be treated in Greece.<sup>38</sup> Within this scope, the Cypriot embassy in Greece can also provide psychological support to Cypriot patients and their families, and to permanent Cypriot residents in Greece who face social and psychological problems. Similarly, the embassy collaborates with unions, associations, and other public or private welfare institutions in Greece to promote the wellbeing of Cypriots settled in Greece and to inform them on how to access healthcare. A final example that shows Cyprus' special interest in this community is the transportation for medical treatment. The Cypriot embassy in Athens can arrange for Cypriots residing in Greece to travel back to Cyprus to receive medical treatment or sends those residing in Cyprus for treatment in Greece.<sup>39</sup>

### **6.3.3 Pensions**

In Cyprus, pensions are regulated by the Ministry of Labour, Welfare and Social Insurance and, in particular, by the Department of Social Insurance Services (SIS). In addition, this Department has a section dedicated to information on how a Cypriot abroad can apply for the Cypriot pension scheme. It is important to note that, for this policy area, the support of the consular services is key. The latter assist with the processing of documents, while also providing the necessary life certificates and documents that prove that the claimants are residing/resided abroad.

Beyond the EU framework, Cyprus' engagement in the area of pensions for citizens abroad is clear in the various BSSAs signed with major destination countries such as Australia and Canada. All the signed BSSAs follow a similar logic in terms of totalisation of benefits, periods of insurance, portability, and exportability of pensions. The most common types of pensions covered by the BSSAs include old age, invalidity and survivors' pensions, as well as orphans' benefits and funeral grants.

### **6.3.4 Family-Related Benefits**

In the area of family benefits, Cypriots residing abroad can mostly rely on the EU framework and applicable BSSAs. Although the BSSAs signed with major non-EU destinations do not include any provisions on family-related benefits, the BSSA with Serbia cover provisions related to maternity benefits, thus safeguarding the derived rights between the two countries.

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<sup>38</sup> [http://www.mfa.gov.cy/mfa/Embassies/Embassy\\_Athens.nsf/DMLsocial\\_gr/DMLsocial\\_gr?OpenDocument](http://www.mfa.gov.cy/mfa/Embassies/Embassy_Athens.nsf/DMLsocial_gr/DMLsocial_gr?OpenDocument). Accessed 9 March 2020.

<sup>39</sup> *Idem* 38

The role of consular authorities in this area is limited to providing administrative documents such as birth certificates. Once again, Cypriots in Greece are particularly favoured, as consular services in Athens collaborate with the Office of Wellbeing of Cyprus to offer support to citizens in terms of counselling for parents or assistance in cases of domestic violence, nutrition, and adoption.<sup>40</sup>

### 6.3.5 *Economic Hardship*

Cyprus does not have a specific scheme to provide financial relief to its diasporic populations facing economic hardship. Nor does it allow or facilitate access to the guaranteed minimum income schemes in the home or host country. In exceptional circumstances, consular services can intervene in the provision of a repayable loan paid by the Ministry of Foreign Affairs to individuals in need (see above). The loan is granted in exchange for a commitment to fully return the amount to the MFA. Alternatively, the interested person can acquire the needed amount of money directly from the consular services, if a deposit of an equal amount has been made by a relative or a friend on the MFA's account department.<sup>41</sup> Lastly, the MLWSI provides a destitute allowance for Cypriots studying in higher education institutions in Greece.<sup>42</sup>

## 6.4 Conclusions

This chapter aimed to discuss the policies that Cyprus uses to support and engage with its diaspora. As shown, diaspora policies are strongly influenced by the country's historical and geopolitical context. The historical affinity of Cyprus with the UK has made the latter the most important destination country, with a concentration of almost 50% of the diaspora. The political, religious, and cultural ties that Cyprus shares with Greece also make it a desirable destination for the Cypriot diaspora. Overall, around 60% of the Cypriot diaspora is concentrated in these two countries, which is reflected in the development of specific policies focusing on Cypriot

<sup>40</sup> [http://www.mfa.gov.cy/mfa/Embassies/Embassy\\_Athens.nsf/DMLsocial\\_gr/DMLsocial\\_gr?OpenDocument](http://www.mfa.gov.cy/mfa/Embassies/Embassy_Athens.nsf/DMLsocial_gr/DMLsocial_gr?OpenDocument). Accessed 13 March 2019.

<sup>41</sup> <http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/57948F7899818EDEC22580250037A60D?OpenDocument>. Accessed 9 March 2020

<sup>42</sup> This allowance is means-tested:

[http://www.mlsi.gov.cy/mlsi/mlsi.nsf/All/39769D4913CAF865C22584560018A891/\\$file/%CE%95%CF%80%CE%AF%CE%B4%CE%BF%CE%BC%CE%B1%20%CE%91%CF%80%CE%BF%CF%81%CE%AF%CE%B1%CF%82%20%CE%B3%CE%B9%CE%B1%20%CF%84%CE%BF%202019\\_2020.pdf](http://www.mlsi.gov.cy/mlsi/mlsi.nsf/All/39769D4913CAF865C22584560018A891/$file/%CE%95%CF%80%CE%AF%CE%B4%CE%BF%CE%BC%CE%B1%20%CE%91%CF%80%CE%BF%CF%81%CE%AF%CE%B1%CF%82%20%CE%B3%CE%B9%CE%B1%20%CF%84%CE%BF%202019_2020.pdf). Accessed 9 March 2020.

communities living there.<sup>43</sup> This is particularly visible in the area of social protection where a number of ad-hoc policies and services are designed for Cypriots residing in Greece.

In terms of the infrastructure for citizens abroad, Cyprus relies mostly on its consular network and the Service for Overseas and Repatriated Cypriots. In addition, the Cypriot Ministry of Education and Culture plays an active role in maintaining cultural connections with citizens abroad and their descendants. A specificity of the Cypriot case is that, unlike other EU Member States which have public institutions fostering dialogue with citizens abroad, Cyprus has partially delegated the task of consulting the diaspora to the World Federation of the Overseas Cypriots (POMAK). As explained, this federation also acts as a lobby to raise awareness abroad about the Cypriot conflict.

Whereas Cypriot authorities often underline the political and economic importance of the diaspora, the main policy areas that they pursue are of a socio-cultural nature, as shown by the extensive support provided to schools and languages classes. In terms of social protection policies, the EU framework and a limited number of BSSAs form the bulk of Cyprus' engagement with its diaspora. Yet, considering the concentration of citizens in just a handful of countries with whom Cyprus has close ties for historical and political reasons or via social security agreements, Cyprus provides with adequate social protection coverage to the majority of its nationals residing abroad. Thus, it cannot be qualified as a disinterested homeland when it comes to its diaspora, but rather as homeland that selectively engages with what it perceives as key communities abroad.

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<sup>43</sup> OECD (2011). Database on Immigrants in OECD and Non-OECD Countries, 2010/11 (DIOC-E 2010/11, Labour Force Status). <http://www.oecd.org/els/mig/dioc.htm>. Accessed 13 March 2019.

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# Chapter 7

## Diaspora Policies, Consular Services and Social Protection for Czech Citizens Abroad



Eva Janská and Kristýna Janurová

### 7.1 Introduction

Research on the Czech diaspora is still rather limited. The existing studies are mostly qualitative and focus on questions of ethnic identification, migration and return migration potential after Czechia's accession to the European Union (EU) (e.g. Vavrečková 2006), migration motives (e.g. Pařízková 2011b), or integration and transnationalism (e.g. Pařízková 2011a; Janurová 2018). Brouček et al. (2017) made the first attempt for a broader characterisation of the contemporary Czech diaspora in a few selected countries, focusing on its needs and relationship with the Czech state. However, no study so far analysed comprehensively the home country policies related to social protection, consular protection, or political participation of the diaspora. This chapter aims to fill this gap. By providing an overview of key institutions and policies, it shows that targeting the diaspora has not been of crucial concern to the Czech authorities and political parties in the past decades, especially in the field of social protection. This attitude may have been influenced by several factors. This includes the steadily low emigration rate (which did not lead to serious fears of brain drain or a weakening of the labor force); the possible mutual reluctance about (re)forming relations with the diaspora after 40 years of communism during which emigrants were persecuted and denigrated; and a general *laissez-faire* attitude to migration in the first decade after the fall of the communist regime in 1989, when the political scene was going through an overall transformation (Baršová and Barša 2005; Drbohlav et al. 2010; Nešpor 2002).

In this chapter, we will show that Czechia's engagement with its diaspora centers on cultural and educational policies and involves some extension of voting rights, while consular services are conventional and social protection is primarily

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considered the task of migrants' host countries. After providing basic information about the structure and geographical distribution of the Czech diaspora, the chapter outlines the general institutional and policy structure that frames the country's engagement with its nationals abroad in various areas, especially consular protection, education, national elections and culture. Second, it discusses the services provided to nationals abroad in the area of social protection, building on the relevant policies.

## 7.2 Diaspora Characteristics and Home Country Engagement

### 7.2.1 *The Czech Diaspora and Its Relations with the Homeland*

The available counts of Czech nationals abroad rely on estimates of Czech diplomatic missions abroad, which usually draw on a mixture of sources (host country government statistics, own estimates, research, etc.). In some of them, it is hard to differentiate between people of Czech and Slovak origins due to their historical cohabitation in one state and different methods used to count people of various national or ethnic origins.

According to estimates, the Czech diaspora includes 2.5 million people with Czech origins (including the offspring of people who migrated in the previous centuries), including 912,000 people born in Czechia, which corresponds to 8.5% of the population of Czechia.<sup>1</sup> The key destination countries are the United States of America (USA, with around 1.3 million inhabitants with Czech and 300,000 with Czechoslovak ancestry in 2018),<sup>2</sup> Canada (approximately 105,000 people with Czech origins and 40,000 with Czechoslovak origins according to the 2016 census)<sup>3</sup> and Germany (approximately 190,000 people with a Czech “migration background”

<sup>1</sup> See: Český statistický úřad (2019). *Obyvatelstvo*. [https://www.czso.cz/csu/czso/obyvatelstvo\\_lide](https://www.czso.cz/csu/czso/obyvatelstvo_lide). Accessed 18 March 2020; and

*Ministerstvo zahraničních věcí České republiky* (2012). *Češi v zahraničí – číselné údaje*. (Unpublished document.) *Praha: Ministerstvo zahraničních věcí České republiky*; and UN (2019). *International migrant stock 2019*. United Nations Population Division, Department of Economic and Social Affairs. <https://www.un.org/en/development/desa/population/migration/data/estimates2/estimates19.asp>. Accessed 18 March 2020.

<sup>2</sup> United States Census Bureau. *Selected Population Profile in the United States. 2018 American Community Survey 1-Year Estimates*. <https://data.census.gov/cedsci/table?t=525%20-%20Czech%20%28111-113%29%3A526%20-%20Czechoslovakian%20%28114%29&tid=ACSSPPIY2018.S0201&hidePreview=false&vintage=2018>. Accessed 18 March 2020.

<sup>3</sup> Statistics Canada (2018). *Census profile, 2016 census*. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/Page.cfm?Lang=E&Geo1=PR&Code1=01&Geo2=&Code2=&Data=Count&SearchText=Canada&SearchType=Begins&SearchPR=01&B1=All&GeoLevel=PR&GeoCode=01>. Accessed 29 September 2018.

in 2018).<sup>4</sup> In Europe, two other important destinations are the United Kingdom (around 55,000 inhabitants born in Czechia, which mostly overlaps with 49,000 of those who reported Czech nationality, in 2017)<sup>5</sup> and Austria (14,000 Czech nationals in 2020).<sup>6</sup> Slovakia, with around 35,000 people speaking Czech as their mother tongue, is another important destination country, although this is mostly due to its long coexistence with Czechia in one state, which enabled a lot of (internal) migration in both directions, including return migration of Slovaks who obtained Czech citizenship.<sup>7</sup>

The reasons for emigration have been changing over the years, being primarily political (before and during the World Wars; during the period of communism from 1948 to 1989) and economic (between the World Wars; in the 1980s period of weakening of the regime and worsening of the economic situation in the home country; and since the 1990s onwards) (Jirásek 1999; Nešpor 2002). Pursuing studies abroad is assumed to be of growing importance as a migration driver since the 1990s and, especially so, since Czechia's accession to the EU in 2004.

The few studies focused on Czech emigration show that many Czech migrants prefer temporary mobility targeted at the accumulation of financial capital, language skills or international experience, intended to be used as assets for one's social or economic mobility in Czechia after return (Pařízková 2011a; Vavrečková and Hantak 2008).

In the eyes of Czech authorities, Czech migrants do not face great integration difficulties, this being one potential reason for which they have not introduced or adjusted many policies to suit the day-to-day needs of the diaspora. Yet, state authorities are very supportive of the restoration and promotion of the cultural heritage of Czech(oslovak) diaspora communities, and of the conservation of the knowledge of Czech and Czechia among emigrants and their offspring (perhaps – but not only – with a possible outlook for the benefits of their potential return). Hence, it is worth asking whether a consolidated Czech diaspora policy encompassing a wider spectre of activities actually exists (cf. Brouček 2015; Brouček et al. 2017). The policies discussed in this chapter have to be read with this context in mind.

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<sup>4</sup> Destatis. *Statistisches Bundesamt* (2019). *Bevölkerung in Privathaushalten 2018 nach Migrationshintergrund*. <https://www.destatis.de/DE/Themen/Gesellschaft-Umwelt/Bevoelkerung/Migration-Integration/Tabellen/migrationshintergrund-staatsangehoerigkeit-staaten.html>. Accessed 5 March 2020.

<sup>5</sup> Office for National Statistics (2018). *Population of the UK by country of birth and nationality*. January to December 2017. <https://www.ons.gov.uk/peoplepopulationandcommunity/population-andmigration/internationalmigration/data/sets/populationoftheunitedkingdombycountryofbirthandnationality>. Accessed 29 September 2018.

<sup>6</sup> Statistik Austria (2020). *Bevölkerung zu Jahresbeginn 2002–2020 nach detaillierter Staatsangehörigkeit*. [https://www.statistik.at/web\\_de/statistiken/menschen\\_und\\_gesellschaft/bevoelkerung/bevoelkerungsstruktur/bevoelkerung\\_nach\\_staatsangehoerigkeit\\_geburtsland/index.html](https://www.statistik.at/web_de/statistiken/menschen_und_gesellschaft/bevoelkerung/bevoelkerungsstruktur/bevoelkerung_nach_staatsangehoerigkeit_geburtsland/index.html). Accessed 5 March 2020.

<sup>7</sup> Výborný, J. (2012). *České menšiny v SR ubývajú*. <https://www.cesi.sk/akt/12/nsr.htm>. Accessed 30 July 2018.

## 7.2.2 *Diaspora Infrastructure*

In Czechia, no authority focuses exclusively on emigration or diaspora issues, although individual ministries do have departments or offices dedicated to or (also) dealing with diaspora affairs, in addition to other institutions targeting the diaspora (see also Brouček et al. 2017).

The consular departments of the Czech representative authorities abroad, arched over by the Consular Department of the Ministry of Foreign Affairs of the Czech Republic (MFA), provide some of the key official services to Czechs abroad. These include the issue or renewal of passports and birth/death/marriage certificates<sup>8</sup>; help in specific situations of need (illness, accidents, arrest or custody, limitation of personal freedom, loss of travel documents or of financial means, death, natural and human made disasters).<sup>9</sup> Ambassadors and consuls are also encouraged to develop and maintain ties with the diaspora and contribute to its networking.

Honorary Consular Officers perform some basic consular functions, including help to Czechs in need, assistance and protection in cases of accidents, situations of threat to life, health or property, arrest, retention, sentencing, or death. They also take on some administrative functions, such as facilitating the issue of or changes in travel documents and accepting Czechs' valuables into custody. Like ambassadors and consuls, they promote social life and support the Czech diaspora.<sup>10</sup>

The Office of the Special Envoy for Expatriate Affairs of the Ministry of Foreign Affairs (*Oddělení zvláštního zmocněnce pro krajanské záležitosti Ministerstva zahraničních věcí České republiky*) was established in 1990 as a Centre for Non-Governmental Relations. It deals with diaspora questions, strengthening relations with Czechs abroad to boost international and economic relations with the host countries, and to deepen and/or support their interest in domestic affairs and in the Czech culture. It also aims to support a positive perception of the diaspora in the homeland. The Office promotes cooperation with diaspora organizations ("societies"), including the local branches of the so-called Czech School Without Border (*Česká škola bez hranic*), through the provision of financial donations for their projects, for the maintenance and repairs of their estate, cultural facilities and small monuments. The Office also supports an educational programme aimed at teaching Czech especially, but not only, to members of the diaspora. It also provides for the issuing of certificates of belonging to the Czech community living abroad, which can be used as a supporting document when applying for permanent residence in Czechia. Additionally, it runs an information service for Czech diaspora

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<sup>8</sup>Czech citizen ID cards can only be issued by municipal authorities in Czechia. No other documents (driving license, health insurance card, etc.) can be used as identification documents in Czechia.

<sup>9</sup>*Zákon č. 150/2017 Sb., o zahraniční službě a o změně některých zákonů (zákon o zahraniční službě), § 17*

<sup>10</sup>*Statut českého honorárního konzulárního úředníka.* (2010). [https://www.mzv.cz/file/919209/Statut\\_CJ.doc](https://www.mzv.cz/file/919209/Statut_CJ.doc). Accessed 1 June 2018.

organizations around the world and aims at pooling the activities of other national bodies working on diaspora issues – most recently, through the introduction of the Inter-Ministerial Commission for Czechs Living Abroad.<sup>11</sup>

The Standing Senate Commission on Compatriots Living Abroad (*Stálá komise Senátu pro krajany žijící v zahraničí*), established in 1996, acts as an advisory body to the Senate of the Czech Republic, focusing exclusively on issues related to the diaspora, such as postal voting, correspondence issuing of passports or the strengthening of the mutual dialogue between Czechs abroad and those in Czechia.<sup>12</sup> The Commission meets regularly and maintains contact with diaspora organizations and representatives by e-mail, video conferences and face-to-face meetings in their host countries or in Czechia. It initiates parliamentary discussions about amendments of laws that affect the diaspora, while also participating in diaspora-related expert conferences and roundtables. It collaborates with the Ethnological Institute of the Czech Academy of Sciences, which conducts academic research on the diaspora, and the International Coordination Committee of Czechs Living Abroad (see below). The Commission's achievements include initiating the legislative change which allowed dual citizenship in 2014; enabling nationals abroad to collect newly issued passports at honorary consulates in 2015; and initiating a law amendment which made some conditions for the Czech School Without Borders comparable to primary schools in Czechia (by removing, for instance, the need for pupils of these schools to do comparative exams in Czech schools). The Commission has established its own Consultative Board as an advisory body consisting of representatives of the state administration and diaspora members.

In 2017, an Inter-ministerial Commission for Czechs Living Abroad (*Meziresortní komise pro Čechy žijící v zahraničí*) was established as an advisory body to the Office of the Special Envoy for Expatriate Affairs of the MFA. It aims to improve information-sharing and cooperation between public authorities (especially ministries) and other public institutions on issues pertaining to Czechs abroad, and gradually create a unified information “database” (in the form of a website<sup>13</sup>) enabling Czechs abroad to deal more easily with administrative, financial and other issues in Czechia, also with respect to their potential return. The Commission shall also submit recommendations and suggestions on measures targeted at improving the relations of the Czech authorities with nationals abroad.

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<sup>11</sup> See: *Meziresortní komise pro Čechy žijící v zahraničí* (2017). *Ministerstvo zahraničních věcí České republiky*. [https://www.mzv.cz/jnp/cz/zahranicni\\_vztahy/krajane/meziresortni\\_komise\\_pro\\_cechy\\_zijici\\_v/index.html](https://www.mzv.cz/jnp/cz/zahranicni_vztahy/krajane/meziresortni_komise_pro_cechy_zijici_v/index.html). Accessed 1 June 2018. See also: Ministry of Foreign Affairs of the Czech Republic (2015). *Czechs Abroad*. [https://www.mzv.cz/jnp/en/foreign\\_relations/czechs\\_living\\_abroad/index.html](https://www.mzv.cz/jnp/en/foreign_relations/czechs_living_abroad/index.html). Accessed 1 June 2018.

<sup>12</sup> Standing Senate Commission on Compatriots Living Abroad. Senate of the Parliament of the Czech Republic. [http://www.senat.cz/organy/index.php?ke\\_dni=30.4.2017&O=11&lng=en&par\\_2=376](http://www.senat.cz/organy/index.php?ke_dni=30.4.2017&O=11&lng=en&par_2=376). Accessed 5 June 2018.

<sup>13</sup> *Užitečné informace pro Čechy žijící v zahraničí*. *Ministerstvo zahraničních věcí České republiky*. [https://www.mzv.cz/cesi\\_v\\_zahranici/cz/index.html](https://www.mzv.cz/cesi_v_zahranici/cz/index.html). Accessed 1 June 2018.

The Czech Centres (*Česká centra*) are a contributory organisation of the MFA, promoting Czechia abroad.<sup>14</sup> The network is active in public diplomacy abroad, interconnects cultural presentations and supports external economic relations and tourism. The Centres also serve as a meeting place for Czechs abroad, providing an opportunity to keep in touch with Czechia through cultural projects. In 1949, the first “Cultural and Information Centres” were established in Warsaw and Sofia. Gradually, a worldwide network developed, known as “Czech Centres” since 1994.

The International Coordination Committee of Czechs Living Abroad (*Mezinárodní koordinační výbor zahraničních Čechů*) is a civic association founded in 2003. Although it is not a public institution, it serves as a platform for meetings and dialogue between Czechs living in different parts of the world, as well as with people residing in Czechia. The Committee organises gatherings, conferences, exhibitions, publications, the regular “Important Czech Woman in the World” award and other events. The bi-annual International Compatriot Conference, taking place in Prague, is a large event frequented by a number of diaspora representatives, the public administration and academics.<sup>15</sup>

In Czech, the historical term “compatriot” (*krajan*<sup>16</sup>), used for both Czech citizens living abroad and all other people with Czech origins (or who identify themselves as such), has become the most widely used label for the diaspora in (expert) discourse.<sup>17</sup> For instance, the label is used as such in the Czech title of the Office of the Special Envoy for Expatriate Affairs, the Standing Senate Commission, the International Compatriot Conference, numerous Czech(oslovak) diaspora organizations, etc. Although it is still used even by members of the diaspora themselves, there has been some debate in the past years about its old-fashioned nature and its prevailing connotation of political exiles or emigrés from Nazi or Communist Czechoslovakia. The Standing Senate Commission has thus started a discussion about its potential change of title to one which would denote both people with historical Czech origins, as well as the contemporary Czech diaspora.<sup>18</sup> The Office of the Special Envoy also prefers using the expression “Czechs abroad” (*Češi v zahraničí*) as an umbrella term for all people of Czech origins living abroad. Some experts and diaspora members use a variant of this term, “foreign Czechs” (*zahraniční Češi*). The widely used international term “diaspora” is however also being more and more commonly used in the Czech context (for instance, in the titles of some of recent conferences and seminars organized by the Standing Senate

<sup>14</sup> Czech Centres. *About us*. <http://www.czechcentres.cz/en/about-us/>. Accessed 5 June 2018.

<sup>15</sup> *Mezinárodní koordinační výbor zahraničních Čechů* (2018). <http://www.zahranicnicesi.com/>. Accessed 5 June 2018.

<sup>16</sup> The word “*krajan*” literally means “someone from the same land”.

<sup>17</sup> *Ministerstvo zahraničních věcí České republiky* (2017). *Z čeho vychází naše práce? Koncepce vztahu MZV k Čechům v zahraničí*. [https://www.mzv.cz/jnp/cz/zahranicni\\_vztahy/krajane/koncepce\\_vztahu\\_mzv\\_k\\_cekum\\_v\\_zahranici.html](https://www.mzv.cz/jnp/cz/zahranicni_vztahy/krajane/koncepce_vztahu_mzv_k_cekum_v_zahranici.html). Accessed 13 July 2018.

<sup>18</sup> *Zápis č. 4 z 4. schůze Stálé komise Senátu pro krajany žijící v zahraničí ze dne 20.9. 2017*. 2017. Stálá komise Senátu pro krajany žijící v zahraničí. <http://www.senat.cz/xqw/xervlet/pssenat/html-led? action=doc&value=85963>. Accessed 5 June 2018.

Commission). This shows that at least for relevant stakeholders in Czechia, “diaspora issues” represent a live topic whose content has evolved in time, along with other political and cultural changes in the societies concerned.

### 7.2.3 Key Engagement Policies

After the turn of the regime in the 1990s, the Czechoslovak and later<sup>19</sup> the Czech Republic took some measures to support the renewal of ties with Czechs (and Slovaks) who had emigrated during the communist period. Besides the formation of cultural and (semi-)diplomatic links via the Ministry of Foreign Affairs, in 1993, the government also enabled emigrants to re-gain the Czech(oslovak) citizenship, which they had frequently been forced by the previous regime to give up (Černý and Valášek 1996).<sup>20</sup> In 2014, the Czech Republic officially introduced the possibility of dual citizenship, thus reacting, among other things, to the rising number of Czechs living abroad and/or in multi-national families.<sup>21</sup> This legal change was initiated by the Standing Senate Commission. Apart from that, official relations with Czechs abroad have been limited to standard consular protection, which applies in the same way to citizens permanently residing abroad and temporary stayers. No overall strategy addressing the needs of the diaspora has been introduced, reflecting the fact that there has been no general need to lobby for or protect citizens’ economic, social, cultural or political rights abroad.

The most visible diaspora engagement policies have been in the fields of education, culture, and voting abroad. The possibility to vote in general elections at representative authorities for Czechs residing or staying abroad was used for the first time in the 2012 parliamentary elections.<sup>22</sup> Apart from elections for the Chamber of Deputies (the Lower House), Czechs abroad can also vote in presidential elections since 2013, when general presidential elections were introduced in Czechia. It is not possible to vote in regional, Senate or European Parliament elections when abroad, but in the latter two types of elections, in-country voting is still possible using voter cards (*voličský průkaz*). General elections can only be held by “professional representative authorities” (embassies, consulates, general consulates and consular offices,<sup>23</sup> i.e. not honorary consulates or permanent missions). To vote abroad,

<sup>19</sup>After the 1993 dissolution of the country

<sup>20</sup>*Zákon č. 193/1999 Sb., o státním občanství některých bývalých československých občanů*

<sup>21</sup>*Zákon č. 186/2013 Sb., o státním občanství České republiky a o změně některých zákonů (zákon o státním občanství České republiky)*

<sup>22</sup>For further information regarding electoral rights, see: Linek, L. (2018). *Report on political participation of mobile EU citizens: Czech Republic*. Country report 2018/16. Global Citizenship Observatory (GLOBALCIT). Robert Schuman Centre for Advanced Studies in collaboration with Edinburgh University Law School. San Domenico di Fiesole: European University Institute. <https://cadmus.eui.eu/handle/1814/59568>. Accessed 5 March 2020.

<sup>23</sup>“konzulární jednatelství” in Czech



Czech citizens either have to be registered in the “special list of a representative authority” (registry of voters living abroad) held by the representative authority of the country of residence<sup>24</sup>; or have a voter card issued by the Czech municipality where they have the permanent residence (if applicable)<sup>25</sup> or by the representative authority where they have until then been registered in a special list.<sup>26</sup> In the latter case, the voter card can be used to vote in Czechia or at any other representative authority where elections are being held. Voters are obliged to vote in person, but geographical distance is a reason why only a minority of the potential Czech voters residing abroad take the opportunity to do so.<sup>27</sup> Although their number has been rising, the introduction of postal or electronic voting could contribute to its further growth.<sup>28</sup> Having been refused three times by the Chamber of Deputies in the past years, correspondence voting is currently part of a bill introduced by the Ministry of the Interior that is expected to pass in 2020.<sup>29</sup> It is anticipated that the 2021 elections for the Czech Chamber of Deputies will already allow for correspondence voting.

Education is another major field of Czechia’s official engagement with the diaspora. Through its educational programme, organized in cooperation with the Ministry of Education, Youth and Sports of the Czech Republic, the Office of the Special Envoy supports a number of educational activities targeted at the diaspora.<sup>30</sup> They include the regular summer Czech course for (descendants of) Czechs living abroad, organized by the Charles University<sup>31</sup>; one- and two-semester Czech language courses at public universities in the Czech Republic; Czech language teaching course for teachers from the local communities of Czechs living abroad; sending teachers to Czech communities abroad or sending lecturers of Czech Language and

<sup>24</sup>Application to be registered has to be delivered to the representative authority at least 40 days prior to the elections.

<sup>25</sup>There is no legal obligation to de-register from permanent residence in Czechia when living abroad. Hence, some citizens, especially those who aim to return after some time, retain their residence in Czechia, in order to maintain e.g. their Czech health insurance and other legal ties to the home country (see section II).

<sup>26</sup>Kandalec, P. (2013). *Access to electoral rights: Czech Republic*. EUDO Citizenship Observatory. <http://eu-do-citizenship.eu/admin/?p=file&appl=countryProfiles&f=136-Czech-FRACIT.pdf>. Accessed 5 June 2018.

<sup>27</sup>Vilímová, T. (2017). Půl milionu Čechů v zahraničí má smůlu. Volit mohou jen obtížně. *Echo24.cz* (updated 2 October 2017). <https://echo24.cz/a/iz6dw/pul-milionu-cechu-v-zahranici-ma-smulu-volit-mohou-jen-obtizne>. Accessed 10 March 2019.

<sup>28</sup>In the 2002 parliamentary elections, only around 3,700 Czechs voted abroad. This number increased up to 6,700 in 2006 and 10,500 in 2013 and 2017. More than 7,700 Czechs voted in the 2013 presidential elections from abroad and around 17,500 did so for the 2018 presidential election. See: *Český statistický úřad* (2018). *Výsledky voleb a referend*. <https://www.volby.cz/>. Accessed 18 July 2018.

<sup>29</sup>*Návrh zákona o správě voleb*. Čj. OVA 80/20. Úřad vlády České republiky. <https://apps.odok.cz/veklep-detail?pid=KORNBH2MHKS9>. Accessed 10 March 2020.

<sup>30</sup>Program *podpory českého kulturního dědictví na léta 2016–2020 (usnesení vlády)*/Programme of the support of the Czech cultural heritage for 2016–2020 (Government decree).

<sup>31</sup>*Letní kurz češtiny pro krajany* (2018). <http://www.ubytovani-dobruska.cz/studium-letni-kurz-cestiny-pro-krajany>. Accessed 18 July 2018.

Literature to universities and other institutions in different countries. Teaching of the Czech language, geography and history abroad is currently widely done also by the Czech School Without Borders, which is a growing network of local NGOs established and run – to a large extent on a voluntary basis – by the diaspora in order to maintain and develop their children’s knowledge of the home country culture. Some of the teachers are members of the community, some get involved through the educational programme.<sup>32</sup>

In the cultural field, Czechia engages with its diaspora in numerous ways. The Czech Centres serve as representative spaces both for Czechia-based artists to present their work abroad, and for artists from the diaspora who wish to publicize their activities in Czechia or elsewhere. They also function as a meeting hub. The MFA also engages with the diaspora through support provided to diaspora societies for their cultural projects (maintenance of libraries or memorials, traditional dancing and singing clubs, etc.), and through the (co-)organization of events where diaspora members meet and present their activities to the Czech public.<sup>33</sup> This includes, for instance, the annual International Compatriotic Festival (organized by the civic association *Občanské sdružení Sedm paprsků*), which is a presentation and competition of diaspora traditional dancing groups<sup>34</sup>; or the annual *Gratias Agit* award ceremony, where individuals or organizations representing the diaspora are awarded by the Minister of Foreign Affairs for spreading Czechia’s good name in the world.<sup>35</sup> The MFA also financially and/or personally partakes in activities organized by the International Coordination Committee of Czechs Living Abroad. Last but not least, Czechia also engages with the diaspora through its Radio Prague international broadcasting service. This is a channel of the Czech Radio public broadcaster, which transmits news from Czechia in six languages, and is accessible around the world, both on the radio and online.

Repatriation and resettlement also need to be discussed as areas of engagement with the diaspora. When there is need for repatriation (including the repatriation of human remains), the Czech representative authorities provide only basic help, such as informing the respective persons or their relatives, issuing necessary documents (e.g. a cover sheet for the repatriation of human remains from countries which are not subject to relevant international treaties), and facilitating contact with institutions in the home or host country (courts, lawyers, public authorities, hospitals,

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<sup>32</sup> For further information, see also: *Česká škola bez hranic* (2018). <http://csbh.cz/>. Accessed 18 July 2018; *Ministerstvo zahraničních věcí České republiky* (2017). *Z čeho vychází naše práce? Koncepce vztahu MZV k Čechům v zahraničí*. [https://www.mzv.cz/jnp/cz/zahranicni\\_vztahy/krajane/koncepce\\_vztahu\\_mzv\\_k\\_cekum\\_v\\_zahranici.html](https://www.mzv.cz/jnp/cz/zahranicni_vztahy/krajane/koncepce_vztahu_mzv_k_cekum_v_zahranici.html). Accessed 13 July 2018.

<sup>33</sup> *Program podpory českého kulturního dědictví na léta 2016–2020 (usnesení vlády)/Programme of the support of the Czech cultural heritage for 2016–2020 (government decree).*

<sup>34</sup> *Mezinárodní krajanský festival* (2017). <http://krajanskyfestival.eu/index.php>. Accessed 18 July 2018.

<sup>35</sup> *Ministerstvo zahraničních věcí České republiky* (2018). *Cena Gratias Agit – úvodní informace*. [https://www.mzv.cz/jnp/cz/zahranicni\\_vztahy/verejna\\_diplomacie/ceny\\_gratias\\_agit/index.html](https://www.mzv.cz/jnp/cz/zahranicni_vztahy/verejna_diplomacie/ceny_gratias_agit/index.html). Accessed 18 July 2018.

insurance companies, etc.).<sup>36</sup> The policy does not distinguish between Czechs permanently and temporarily staying abroad.

Voluntary collective resettlement of nationals or evacuation (or members of the diaspora who may not necessarily have Czech citizenship) takes place in exceptional circumstances, based on government resolutions taken usually in reaction to specific political circumstances (wars, conflicts) or natural disasters. Nowadays, the Ministry of Interior and the Ministry of Foreign Affairs take care of them. The first two resettlement programmes took place in 1946–1947 (resettlement of nationals to vacated areas of the Czechoslovak borderlands) and in 1991–1993 (evacuation of around 2000 nationals from areas in Ukraine and Belarus affected by the Chernobyl nuclear disaster). The third (1995–2001) and the fourth programme (2007) led to the resettlement of the diaspora from Kazakhstan, Russia, Uzbekistan, Kyrgyzstan, and Moldova. Recently, evacuations from Ukraine in 2015, from Libya in 2011 and from Lebanon in 2006 took place, due to political unrest in these countries and extreme life-threatening situations.<sup>37</sup> The most recent repatriations took place in the spring of 2020 after the outbreak of the covid-19 global pandemic.<sup>38</sup>

Apart from the described areas, there are no other specific policies of engagement, beyond regular procedures formulated by international or European law. Likewise, Czechia has no specific policies targeting the diaspora in the fields of remittances, housing or business. Apart from the reasons already mentioned (low emigration rate and its negligible effect on the Czech economy), the content of Czechia's engagement with the diaspora might have also been structured by the demand expressed by representatives of the diaspora themselves.

### 7.3 Diaspora Policies and Social Protection in Czechia

Czechia does not have a social protection strategy for its citizens abroad. Generally, social protection is understood as part of the role of the state of residence. However, entitlements to social allowances deriving from social or sickness insurance may take into account insurance periods spent in Czechia, based on bilateral agreements with third countries (Brouček et al. 2017, p. 77–80; Kropáčová 2014). Nationals residing abroad are thus entitled to social allowances primarily via the institute of aggregation of insurance periods, which is mostly used in the case of pensions, the calculation and payment of which is more complex than in the case of other benefits

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<sup>36</sup> Zákon č. 150/2017 Sb., o zahraniční službě a o změně některých zákonů (zákon o zahraniční službě), § 17

<sup>37</sup> Ministerstvo vnitra České republiky (2018). *Integration of Compatriots Resettled to the Czech Republic*. <http://www.mvcr.cz/webpm/clanek/integration-of-compatriots-resettled-to-the-czech-republic.aspx?q=Y2hudW09Mg%3D%3D>. Accessed 30 July 2018.

<sup>38</sup> Ministerstvo zahraničních věcí České republiky (2020). *Dopis zvláštního zmocněnce krajanům v souvislosti s pandemií Covid-19*. [https://www.mzv.cz/jnp/cz/zahranicni\\_vztahy/krajanek/aktualni\\_informace/dopis\\_zvlastniho\\_zmocence\\_krajanum\\_v.html](https://www.mzv.cz/jnp/cz/zahranicni_vztahy/krajanek/aktualni_informace/dopis_zvlastniho_zmocence_krajanum_v.html). Accessed 7 August 2020.

responding to relatively short-term life situations (*ibid.*). Nevertheless, if Czech migrants retain their permanent residence in Czechia, they might, theoretically, also keep their entitlement to (some) other social allowances – in such case, they are not considered as “diaspora”.

Although there is no legal obligation to de-register from permanent residence in Czechia when living abroad, it is assumed that Czechs who decide to settle in another country permanently do so for practical reasons, such as easier access to employment, to opening a bank account, or to the social security in the host country (if they have fulfilled the conditions to register their permanent residence there). On the contrary, some Czech migrants may decide to keep their permanent residence in Czechia if they perceive it as easier or more expedient to use the Czech social protection system, rather than arranging to draw support from the host country. Permanent residence thus plays a greater role than nationality in accessing social protection in cases when the country of origin offers better protection than the country of destination. In the case of Czechia, this claim holds the more so because the Czech social protection law does not target Czech nationals abroad *per se*, and thus only permanent residence ensures the provision of social benefits. That said, although the legal framework for consular services does not state that consulates should assist Czech nationals abroad in cases when they seek to apply for social benefits in Czechia, this might theoretically occur in specific circumstances in response to citizens considered “in need” and applies to all the areas of social protection mentioned below.<sup>39</sup>

### 7.3.1 Unemployment

The Czech state has policies in place targeting the diaspora in situations of serious need (see below), as well as educational policies (as described above), that may indirectly apply to nationals abroad in the situation of unemployment. However, no Czech authority provides assistance specifically in the area of (un)employment to Czech citizens abroad beyond what is provided by the EU framework and bilateral agreements with third countries, some of which account for the migrant’s insurance period in Czechia (e.g. the agreement with Turkey<sup>40</sup>).

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<sup>39</sup>Zákon č. 150/2017 Sb., o zahraniční službě a o změně některých zákonů (zákon o zahraniční službě), § 17

<sup>40</sup>Ministerstvo práce a sociálních věcí České republiky (2019). *Dvoustranné smlouvy o sociálním zabezpečení* (updated 27 October 2019). <https://www.mpsv.cz/web/cz/dvoustranne-smlouvy-o-socialnim-zabezpeni>. Accessed 12 March 2020.

### 7.3.2 Health Care

Nationals who reside abroad permanently are expected to register with a health insurance institution in the country of residence.<sup>41</sup> However, as stated in European regulations,<sup>42</sup> permanent migrants can also file an official request to the regional office of the Czech Social Security Administration (CSSA, *Česká správa sociálního zabezpečení*) for an exception from the legal rules, if they for some reason wish to keep their health insurance in Czechia.<sup>43</sup> If the concerned authorities in Czechia (CSSA and the Health Insurance Bureau (*Kancelář zdravotního pojištění*) and in the host country do not object to the request, the migrant can stay insured in Czechia, provided he/she pays the insurance him-/herself. This exception probably reflects the fact that especially migrants with long-term health problems may prefer to keep undergoing treatment in healthcare facilities where they have already been doing so.

As regards specific policies of healthcare provision to members of the diaspora, the Ministry of Health of the Czech Republic ensures that necessary healthcare, corresponding to the needs of the particular patient, is provided to participants and teachers of internships and teaching or language courses in Czechia, including participants of courses for members of the diaspora.<sup>44</sup>

### 7.3.3 Pensions

The pension insurance system covers for old-age, disability, widows' and widowers' and orphans' pensions. These pensions are administered by the Czech Social Security Administration. Nationals abroad can, in line with the relevant international, European and Czech laws, take up their old-age pension benefits based on any legal work contract in any country in which they participated in pension insurance for at least one year, provided they have reached retirement age and have been insured for the needed minimum period stated by the laws of that state.<sup>45</sup> Other types of pension benefits are also paid out based on the relevant coordination regulations valid for all EU Member States (Kropáčová 2014).

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<sup>41</sup> *Kancelář zdravotního pojištění* (2016). *Kde mám být pojištěn?* <https://www.kancelarzp.cz/cs/pojistenci/prava-naroky-eu/zdr-poj-pece-eu/kde-byt-pojisten>. Accessed 30 July 2018.

<sup>42</sup> Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004.

<sup>43</sup> For example, some people prefer to keep their registration with particular specialist doctors in Czechia (dentists, gynecologists, etc.), and choose to make regular home country visits to have their check-ups done there.

<sup>44</sup> *Usnesení vlády České republiky č. 348 z 13. května 2015 o pokračování Programu podpory českého kulturního dědictví v zahraničí na léta 2016 až 2020*/ Government Resolution on the Continuation of the Programme to Support the Czech Cultural Heritage Abroad for the Years 2016 to 2020

<sup>45</sup> *Důchody* (2018). *Užitečné informace pro Čechy žijící v zahraničí. Ministerstvo zahraničních věcí České republiky.* [https://www.mzv.cz/cesi\\_v\\_zahranici/cz/zdravotni\\_a\\_socialni\\_pojisteni\\_duchod\\_a/ducho\\_dy/index.html](https://www.mzv.cz/cesi_v_zahranici/cz/zdravotni_a_socialni_pojisteni_duchod_a/ducho_dy/index.html). Accessed 30 July 2018.

The CSSA and its superior institution, the Ministry of Labour and Social Affairs (*Ministerstvo práce a sociálních věcí České republiky*), are the only Czech authorities active in the field of pensions for nationals abroad. As such, the CSSA provides information and the necessary documents to nationals abroad who seek to claim Czech pensions, and together with the Ministry, they publish basic instructions online and in print in the form of information sheets and guides such as, for instance, the Guide for migrating pensions (*Příručka pro migrující osoby*).<sup>46</sup>

The payment of pension benefits to nationals residing in third countries is regulated by bilateral agreements on social security which are divided into three types.<sup>47</sup> *Proportional agreements* (e.g. with Austria, Australia, France, Canada, Poland, the USA) are based on the principle of equity, single insurance, aggregation of insurance periods and paying out of the pensions to the second state of agreement. According to these agreements, pensions are paid out by both or all states concerned. *Territorial agreements* are based on the principle of permanent residence of the beneficiary. For example, old-age pensions are paid out by the state of permanent residence even for the period the beneficiary was insured in the other state. This is a historical principle of social security coordination, used in Czechoslovakia's bilateral agreement with the former Union of Socialist Soviet Republics (USSR). Czechia's former agreements with the Russian Federation and other follower states of the former USSR were based on this principle, but were terminated in 2008 and 2009, respectively, and replaced with other agreements. *Combined agreements* are proportional with a territorial element, which concerns the evaluation of insurance periods gained before a certain date. For example, in the case of the agreement with Slovakia, this is the date of the dissolution of the Czechoslovak Federal Republic (1 January 1993), whereas for the agreements with Ukraine and Russia, this is the date of the entry into force of the agreement (*ibid.*). In the case of third countries with which Czechia has not signed bilateral agreements, insurance periods spent in the other country are not taken into account when evaluating the entitlement to pension benefits (Kropáčová 2014).<sup>48</sup> New agreements are continuously being negotiated and signed (*ibid.*).

As regards the payment of pensions, “all payments of pension benefits are made through the Czech National Bank in Prague (...) and its contractual partners – its correspondent banks”.<sup>49</sup> The payment can be carried out in five different ways: by

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<sup>46</sup> *Ministerstvo práce a sociálních věcí České republiky* (2012). *Příručka pro migrující osoby*. [https://www.mpsv.cz/files/clanky/13776/Prirucka\\_pro\\_migrujici\\_osoby.pdf](https://www.mpsv.cz/files/clanky/13776/Prirucka_pro_migrujici_osoby.pdf). Accessed 30 September 2018.

<sup>47</sup> *Česká správa sociálního zabezpečení. Mezinárodní smlouvy*. <https://www.cssz.cz/cz/mezinarodni-smlouvy/>. Accessed 28 July 2018.

<sup>48</sup> This concerns most African, Asian and South and Central American countries.

<sup>49</sup> Czech Social Security Administration. *Conditions for paying out of pension benefits to persons with a permanent place of residence outside the Czech Republic*. <https://www.cssz.cz/en/pension-insurance/conditions-for-paying-out-of-pension-benefits-to-persons-with-a-permanent-place-of-residence-outside.htm>. Accessed 28 July 2018.

cheque sent to the address of the pension beneficiary abroad (other than in Slovakia<sup>50</sup> and Canada<sup>51</sup>); directly to the beneficiary's account at a financial institution abroad; to the beneficiary's account (or his/her spouse's account) in the Czech Republic; in the form of a money order to an address in Poland<sup>52</sup>; or to an account in Euro in Slovakia. The conditions for entitlement to payment of a pension benefit are verified by the Certificate of Living, which is a formal document declaring the beneficiary's living that has to be filled in, signed and the signature officially verified.<sup>53</sup> The certificate is either sent once per year by the CSSA to the beneficiary's address abroad to be filled in (in the case of payment by cheque or to an account in Euro in Slovakia) or sent to the CSSA by the beneficiary him-/herself in intervals of their choice, which correspond to the intervals of payment of the pension benefit (in the case of payment to accounts abroad or in Czechia) (ibid.). The Certificate of Living does not have to be submitted by beneficiaries receiving pension to addresses in Poland.

The described variability in the range of bilateral agreements reflects the complexity of the system of pension insurance, which needs to take into account not only the places of former and current residence of the beneficiary, but also all his/her individual employment contracts signed in one or more countries.

### 7.3.4 Family-Related Benefits

Family-related benefits available in Czechia include benefits financed from sickness insurance, on the one hand, and benefits financed from the system of "State Social Support", on the other. Benefits financed from sickness insurance that might be of concern to nationals abroad include the maternity benefit (taken up for 22–37 weeks,

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<sup>50</sup>The reasons why pensions cannot be paid out to Slovakia in the form of a cheque are historical and geopolitical. After the dissolution of Czechoslovakia in 1993, a special form of automatic monthly payments was introduced for pensioners receiving Czech pension but living in Slovakia, based on their quarterly submission of the Certificate of Living (Employee of CSSA, personal email communication, May 2018).

<sup>51</sup>The reason why Czech pensions cannot be paid out to Canadian residents in the form of a cheque is that the Royal Bank of Canada, which is the only correspondent bank in Canada responsible for these payments, no longer produces printed cheques for clients who have accounts in other banks, and therefore cannot guarantee the delivery of the payment to the correct recipient (Employee of CSSA, personal email communication, May 2018).

<sup>52</sup>There are historical reasons why Poland is the only country where Czech pensions can be paid out to the recipients' addresses in the form of a money order. As Poland used to be the biggest recipient of Czechoslovak international payments of pensions in the period 1948–1989, the countries have introduced a system of regular monthly payments conducted via their respective postal services. This system was reinforced by a treaty signed in 2003. Since international money orders can be delivered to the addressee only, Polish recipients of Czech pensions do not have to prove their living (Employee of CSSA, personal email communication, May 2018).

<sup>53</sup>*Potvrzení o žití – pro vyplácení důchodu/Certificate of living – for payment of pension.* <https://www.cssz.cz/NR/rdonlyres/D86ED0EC-DF95-45E8-9132-077F98776FA3/0/POZA.pdf>. Accessed 30 July 2018.

beginning just prior or after child birth) and fathers' post-natal care (effective as of 1 January 2018, it can be taken up for up to a week within 6 weeks of the date of child birth or of the date foster care begins).<sup>54</sup> Other sickness benefits are tied to employment in Czechia. From the benefits provided under State Social Support, the only one that might be of relevance to nationals abroad, as long as they keep their permanent residence in Czechia, is the parental allowance, because it is drawn on a long-term basis and is not tied strictly to family's earnings or living costs. This allowance is provided to a parent who personally and duly cares for the youngest child in the family up to 4 years of the child's age.

Czechia has no special policies regulating the payment of these benefits to nationals abroad. Like in the case of unemployment benefits, for instance, in third countries tied by bilateral agreements with Czechia, the provision of family benefits is primarily seen as the responsibility of the receiving state, in some cases (and if relevant) with reference to the insurance period spent in Czechia. In cases of double eligibility, allowances are provided based on the regulations of the country of residence/later insurance (*Ministerstvo práce a sociálních věcí České republiky*, 2019). Like in the case of pensions, the only authorities that assist nationals abroad in the area of family-related benefits are the CSSA and the Ministry of Labour and Social Affairs of the Czech Republic. The CSSA provides information and the necessary documents to nationals abroad (or those who are about to move abroad), who are eligible for family-related benefits based on their (previous) sickness insurance in Czechia, and together with the Ministry, they publish basic instructions online and in print in the form of information sheets and guides, such as the Guide for migrating pensions. These forms of assistance however do not go beyond the extent of assistance provided to people residing in Czechia.

### 7.3.5 *Economic Hardship*

The System of Assistance in Material Need is regulated by the Act no. 111/2006 Coll., on Assistance in Material Need, with amendments (*Zákon č. 111/2006 Sb., o pomoci v hmotné nouzi, ve znění pozdějších předpisů*). According to this Act, three types of benefits can be paid out to persons in specific situations of material need: the Allowance for Living, the Supplement for Housing and the Extraordinary Immediate Assistance. Czechia has no special policies regulating the payment of these benefits or the provision of other forms of assistance (including to homeless

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<sup>54</sup>Czech Social Security Administration (2017). *Benefits provided under sickness insurance*. <https://www.cssz.cz/en/sickness-insurance/benefits-provided-under-sickness-insurance.htm>. Accessed 30 September 2018. See also: Ministry of Labour and Social Affairs. *State Social Support*. <https://www.mpsv.cz/en/1603>. Accessed 30 September 2018.



persons) to nationals abroad, beyond policies stated by relevant international coordination regulations.<sup>55</sup>

However, in the case of serious need, representative authorities can provide adequate financial or material support to Czechs residing abroad, if this is indispensable, if it is not possible to obtain such aid by other means, and if the recipient commits to cover the costs of consular protection.<sup>56</sup> This commitment is not requested in cases of exceptional circumstances. Situations when financial or material aid can be provided are especially such when a citizen's life is being threatened.

## 7.4 Conclusions

This chapter shows that the engagement of Czech authorities with the Czech diaspora has been more pronounced in the areas of education and culture, while in the area of social protection, it does not extend beyond the application of basic coordination measures defined by the EU law. This observation reflects the fact that emigration has not been of a threat to the Czech economy in the past few decades, and perhaps that the demand for more intervening policies has not been (perceived as) significant.

Czechia's engagement with the diaspora in the field of consular protection follows general principles of consular protection applied internationally. Ambassadors and consuls are encouraged to contribute to the networking of the diaspora, but do not provide explicit support to Czech citizens to access benefits in the home or host country.

Teaching of the Czech language, history and geography to diaspora members is one of the key activities supported by the Czech authorities, by way of financial donations to diaspora organisations or support of teachers' individual postings abroad. Like in the case of education, Czechia's intensive contact with the diaspora in the cultural field is diverse and long-term, including the Czech Centres; the financial and institutional support to cultural projects and events organized by, for and about the diaspora; and the support to the Czech international broadcasting service. As for political participation, rather recently (2002 and 2013 respectively), Czechs abroad have been made able to take part in parliamentary (Chamber of Deputies) and presidential elections in person at representative authorities.

As regards the five areas of social protection analysed here (unemployment, health care, pensions, family-related benefits and economic hardship), the chapter has shown that Czechia employs no policies beyond the scope of general coordination regulations valid in the EU, and corresponding policies concerning third countries with which Czechia has bilateral agreements. The only specificity includes the

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<sup>55</sup> Česká správa sociálního zabezpečení. *Koordinace sociálního zabezpečení*. <http://www.cssz.cz/cz/evropska-unie/socialni-zabezpeceni/>. Accessed 20 July 2018.

<sup>56</sup> Zákon č. 150/2017 Sb., o zahraniční službě a o změně některých zákonů (zákon o zahraniční službě)

variations in how pension benefits are calculated and paid out to nationals living in various parts of the world, depending on historical relations and bilateral agreements (in particular with Slovakia, Poland, Canada and some post-Soviet states). Besides this, Czech nationals abroad have some access to the Czech social protection system only as long as they retain their permanent residence in Czechia. However, in such cases, they are not perceived as “diaspora”.

There have been no major controversies or political debates concerning diaspora’s access to social protection in the recent years, and no specific changes are currently being discussed. The only topics that have recently been negotiated include the introduction of postal voting (this proposal, submitted by the Senate, has been refused repeatedly by the Chamber of Deputies in the past years, but is again part of a bill that is currently in the legislative process) and that of the law amendment allowing dual citizenship, which came into force in 2014.

Overall, this chapter illustrates that the Czech state is not indifferent to Czech nationals abroad, be it in the sense of support to those in need or in a more symbolic sense, meaning that maintenance of contact is considered a valuable cultural resource. This attitude has changed since the 1990s, when official relations with the diaspora were just being (re)formed, while the public perception of (returning) Czech migrants was rather suspicious or straightforwardly critical (Nešpor 2002, 2005). To the contrary, recent years, which brought about the introduction of dual citizenship to Czech law or the establishment of the Inter-ministerial Commission for Czechs Living Abroad, show that diaspora issues are getting more attention from a wider spectre of state authorities than in the past. This chapter shows that a lot of this newly formalized contact between the diaspora and the Czech state came out from bottom-up efforts and activities (e.g. calls for voting from abroad, demands from people thinking about return to have information about the bureaucratic process easily accessible in one place, diaspora cultural and education activities). According to Brouček (2011, p. 51–52), minimal, non-intruding relations to the diaspora are sufficient, since attempts at “organizing the life of Czechs abroad” – e.g. by introducing diaspora-oriented institutions in the home country – do not “pay off”, when migrants themselves do not perceive them as desirable. Migrants who wish to keep relations with one another or with the homeland will always find their ways, depending on their needs. From this perspective, it seems that even though the Czech diaspora policy is not robust and may come off as unconsolidated, it does (aim to) respond to the real needs of those concerned.

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# Chapter 8

## Diaspora Policies, Consular Services and Social Protection for Danish Citizens Abroad



Romana Careja

### 8.1 Introduction

Approximately 250,000 Danish expats are currently living outside the borders of Kingdom of Denmark, mostly in other European Union (EU) countries and the United States of America (USA). This chapter explores the question of how the Danish Government is relating to this group of its citizens by focusing on whether and which diaspora-targeted policies exist, which social rights can be retained while residing abroad, and whether and how state institutions have attributes in supporting Danish citizens residing abroad.

Based on evidence from legal and administrative documents, as well as on communications with key informants, and on the review of existing studies and reports, two main observations concerning the way in which the Danish Government interacts with the Danish diaspora can be formulated right from the beginning. Firstly, there has been limited effort to create/promote policies that directly target the Danish diaspora. With very few exceptions, the Danish Governments' approach to Danish diaspora, especially in the area of welfare, has been through the general legislation designed primarily for residents. As a general rule, the embassies and consulates have no attributes in what concerns the provision of, or facilitation of provision of welfare to Danish citizens residing abroad. If, on a case-by-case basis, it is decided that consular service (in the form of direct help or advice) may be provided, it comes with a financial cost. Secondly, Danish citizens lose access to most of the social benefits to which they are entitled in Denmark once they move their residence abroad.

Several factors may explain the limited development of diaspora policies in Denmark and the limited access to Danish welfare benefits by Danish citizens

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residing abroad. Firstly, the coverage of the universal Danish welfare state is extended to individuals based on residence and not on citizenship. Therefore, as soon as a person officially does not reside in Denmark, he or she loses many of the social rights to which he/she would be otherwise entitled as resident, even if that person is a Danish citizen. Secondly, I suggest that the existence of the EU legal framework on cross-border welfare, and the strong cooperation among Nordic countries via social security agreements to support the mobility of Nordic citizens in Nordic area likely reduce the incentive for Danish authorities to develop ad-hoc policies for its diaspora. Thirdly, the relative neglect of diaspora-related issues may reflect the small size of the Danish diaspora, and, arguably, the constructed image of emigrants as ungrateful and selfish individuals (Mouritsen and Jensen 2017) may have additionally discouraged authorities to take an open interest in the diaspora.

The chapter is structured as follows: the first section presents contextual information concerning Danish consular service provision and diaspora policies. Then, the chapter traces different welfare entitlements accessible to Danish citizens abroad (with a particular focus on Danes living in Sweden, Norway, Germany, the United Kingdom (UK) and the USA, which are the primary destination countries for Danish citizens abroad) and the role of Danish authorities in accessing these rights.

## 8.2 Diaspora Policy Infrastructure and Key Policies

### 8.2.1 *The Danish Diaspora and Its Relations with Homeland*

Historically, Denmark has been a country of emigration: between 1850 and 1950, poverty had pushed an estimated 400,000 Danes to seek their fortunes on other shores. Most emigrated to the USA, but also to Canada and Argentina (Mouritsen and Jensen 2017; Grøngaard Jeppesen 2005). Currently, an estimated 250,000 Danish citizens (including children) are residing outside the Danish borders.<sup>1</sup> The countries hosting the largest Danish diaspora are Sweden, Norway, Germany, the USA and the UK. Table 8.1 below illustrates the emigration flows to these countries over the last 5 years, compared to the Danish citizens emigrating to all other European Economic Area (EEA) countries, plus Canada, Australia and New Zealand, estimated based on the numbers of Danish citizens who inform Danish authorities that they move to these countries.

Contrary to the centrality of immigration, emigration is not a major topic, neither for Danish politicians, nor for the Danish public. This is not to say that is completely out of the limelight. For most of the last two decades, Danish emigration has been mostly depicted in negative terms, as a brain drain, while emigrants were often portrayed as selfish individuals who chose personal benefits over staying in Denmark

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<sup>1</sup>Estimate provided in the 2016 report *The Danish Diaspora – An Untapped Resource?* by Copenhagen Goodwill Ambassadors & Danes Worldwide.

**Table 8.1** Yearly outflow of Danish citizens

	2014	2015	2016	2017	2018
Sweden	1822	1842	1989	1736	1811
Norway	1599	1360	1241	1158	1228
Germany	1616	1571	1614	1488	1531
USA	2034	2400	2211	1937	1796
United Kingdom	2354	2393	2140	2023	1776
All other EU/EEA, CAN, NZ, AU	4805	4803	5073	5475	5572

Source: Statistics Denmark (2019), Table VAN2KVT ([www.dst.dk](http://www.dst.dk))

and contributing to the welfare state that supported them.<sup>2</sup> Some politicians even argued that, in order to discourage graduates of Danish universities to move and work abroad, the Government could turn the generous education grants into zero-interest loans that would need to be repaid in case a graduate would opt for career abroad (Mouritsen and Jensen 2017). The tone has become more positive in recent years as data has shown that most Danes (between 70 and 80%) tend to return after about 10 years spent abroad (Mouritsen and Jensen 2017; Redington 2003). Some scholars have suggested that that the relatively low number of Danes living abroad, as well as their tendency to return after relatively short periods partly account for fact that diaspora-related issues and emigration policies score rather low on the political agenda (see for example, Mouritsen and Jensen 2017).

This apparent lack of interest on the part of the Danish state is not without consequences. In 2016, Copenhagen Goodwill Ambassadors & Danes Worldwide (CGA&DW) conducted a survey<sup>3</sup> among their members with the aim of identifying how the Danish citizens living abroad experience the connection with the home country. According to this survey, the main reasons for which Danes move abroad are career opportunities and personal relationships (see also Madsen 2009). The survey also found that, while Danes are keen to maintain a connection with Denmark, they also are critical of the limited way in which Danish authorities connect with the diaspora. Moreover, specific barriers such as loss of voting rights (as early as 2 years after leaving Denmark),<sup>4</sup> stringent requirements for family reunification, difficulties in accessing or maintaining citizenship (until 2015, Denmark did not accept dual

<sup>2</sup>Mouritsen and Jensen (2017:55) quote a Danish Liberal Party MP saying “if you really are concerned about Denmark and have feelings for your country, you might come home from your tax shelters and contribute to it” (quote retrieved from Brogaard Pedersen 2009).

<sup>3</sup>The survey is not based on a representative sample of Danes living abroad. The survey has been sent by email the members of Copenhagen Goodwill Ambassadors and was posted on social media sites aimed at Danish citizens living abroad. 960 responses were received via the Danes Worldwide network, and 64 Copenhagen Goodwill Ambassadors answered (79%) (CGA&DW 2016:5).

<sup>4</sup>Voting rights are lost if a person resides abroad longer than 2 years, with exception of specific groups, for example government employees working in Danish representations abroad. Those intending to vote must request to be included in the electoral register of the municipality of origin (assimilated representation). Voters who are staying abroad may cast their vote in advance with a Danish diplomatic or consular mission or with a ‘vote receiver’ appointed by the Minister for Economic Affairs and the Interior, cf. sect. 57 of the Folketing Election Act. A ‘vote receiver’ is a

citizenship) and the lack of political influence contribute to Danish diaspora's overwhelming perception that it is not a priority for the Danish state (CGA&DW 2016). Danish authorities have recently indicated that their position on diaspora issues is changing. A sign in this direction has been the creation in 2018 of a task force with the aim of providing the Government with advice on how to engage the Danish diaspora.<sup>5</sup> For example, although the diaspora is still not officially represented in any homeland governmental body, organisations that represent diaspora, such as *Danes Worldwide* (danes.dk) have recently been involved in ad-hoc consultations or information sessions with homeland authorities.

## 8.2.2 *Diaspora Infrastructure*

Denmark does not have any official governmental agencies or institutions that deal with Danish citizens residing abroad and efforts to organize or engage with the diaspora are extremely limited (see below, Sect. 8.2.3).<sup>6</sup> According to Mouritsen and Jensen, “[diaspora engagement policies] are really non-existent in the Danish case, and there is very little of [diaspora-building policies]” (2017:56). Consequently, Denmark does not have diaspora infrastructure *per se*, as a set of institutions financed and managed by the Danish state that are explicitly designated to look after the Danish citizens residing abroad. In absence of such institutions, one can however identify other institutions which provide some degree of support to the Danish diaspora.

Firstly, Denmark has a well-developed network of representations abroad, which includes embassies, general consulates and a large network of around 400 honorary consulates. In the five countries of interest in this chapter, Denmark has the following representations in addition to embassies: in Sweden: one general consulate and 15 honorary consulates; in Norway: one general consulate and 13 honorary consulates; in Germany: three general consulates and 11 honorary consulates; in Great Britain: one general consulate and 20 honorary consulates; and in the USA: four general consulates and 38 honorary consulates.<sup>7</sup> While the embassies and general consulates are responsible with implementing Danish foreign policy, representing Denmark abroad and protecting and assisting the Danish nationals abroad, the honorary consulates' main aim is to provide support in the name of the Danish state for example in critical situations – deaths, accidents, assaults, etc., when other help is

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person who is legally allowed to receive/collect the votes of Danish citizens abroad who have the right to vote.

<sup>5</sup>Communication with a representative of Danes Worldwide. Accessed 4 February 2019.

<sup>6</sup>Email communications with a representative of *Danes Worldwide*. Accessed 24 August 2018. Additionally, no information about diaspora-related policies and institutions on the website of the Ministry of Foreign Affairs exists.

<sup>7</sup>Ministry of Foreign Affairs website, <http://um.dk/da/om-os/organisation/>. Accessed 24 August 2018.



not available. Most of the support that these institutions offer are for travellers (see Sect. 8.2.3 below), although some services may be offered to Danish citizens residing abroad as well.

Secondly, the Danish state provides financial support to the Danish ethnic minority living in the North of Germany. This policy is similar to what has been observed in the case of other EU Member States. The funds are used to support a Danish-language newspaper and several other cultural initiatives aimed at maintaining ties with the Danish culture. However, it needs to be mentioned that the Danish ethnic minority (counting ca. 50,000 individuals), which is composed of German citizens with strong Danish affinities, is not considered “Danish diaspora” (Mouritsen and Jensen 2017). The Danish ethnic minority in the North of Germany has resulted from political and historical events taking place at the end of 19th and beginning of the twentieth century. The Copenhagen-Bonn declarations in 1955 have established the basis for cooperation between Denmark and Germany with regard to their respective minorities living on each other’s territories.<sup>8</sup>

Thirdly, NGOs, the National Church, and emigrant associations active in destination countries play an important role in supporting Danish diaspora. These organisations coalesce Danes abroad and provide a network of support and, to some extent, connection to homeland. One such organisation is the National Church (*Folkekirken*). Given Denmark’s history as a maritime power, there is a widespread network of Danish churches in the main seaports of the world. In addition to religious services, the Danish Churches organize cultural and social events, and offer Danish language courses (Mouritsen and Jensen 2017, see also folkekirken.dk). As the Church is largely state financed, one could argue that the Danish state is indirectly providing support for the Danes abroad via this channel.

Another non-state organisation is Danes Worldwide (danes.dk), which, with headquarters in Copenhagen and a network of regional representatives around the globe, is a wide-reaching organization. The organization provides overall counselling, and networking opportunities for Danes worldwide. They also organize Danish language programs for adults and children, and a summer school – thereby supporting the desire of Danish citizens abroad to maintain the ties with the home country, its language and culture.<sup>9</sup> Danes Worldwide has received financial support from the Ministry of Education for the Danish language classes (Mouritsen and Jensen 2017). However, Danes Worldwide does not receive public funds on a regular basis, and it competes with other organisations for governmental grants. But instances when grants are offered are rare.

The embassies/consulates do cooperate with organizations representing Danish citizens abroad, although it is mostly ad-hoc. For example, Danes Worldwide notes that they cooperate with embassies/consulates in cases such as assistance for transportation of bodies of dead relatives or legal counselling in paternity cases. Other

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<sup>8</sup> For details, see *The Danish ethnic minority*, <http://tyskland.um.dk/da/om-tyskland/danske-mindretal-i-sydslesvig/den-dansk-tyske-mindretalsordning/>. Accessed 24 August 2018.

<sup>9</sup> Communication with a representative of *Danes Worldwide*. Accessed 24 August 2018.

forms of cooperation include exchange of local knowledge regarding understanding of local regulations on citizenship etc. In certain cases, the Ministry links to Danes Worldwide as contacts for local representation etc.<sup>10</sup>

While Danes Worldwide is a general organization, others are more issue-specific. For example, *Ægteskab Uden Grænser* concentrate their efforts on problems regarding family reunification with foreign spouses, while Danes Abroad Business Group Online (DABGO) or the Chambers of Commerce tend to look towards businesses. During research for this study, it was unclear to what extent these, and other similar organisations, benefit from regular support from the Danish state, as the Ministry of Foreign Affairs does not communicate public information on cooperation and financial support for organisations of Danish citizens living abroad. Based on the example of Danes Worldwide, it is reasonable to assume that at least some of them receive project-based grants from the ministries closest to their activities.

As a strong volunteer sector is part of the Danish ethos, it is likely that in each of the five major destination countries (Sweden, Norway, Germany, the UK and the USA) there are organizations that cater to various needs of Danish citizens abroad. However, little centralized information about these organizations exists. Among the five countries, only the embassies in the UK<sup>11</sup> and Sweden<sup>12</sup> provide a list of such organizations on their websites. There is also evidence that Danes abroad organize themselves and finance some activities. For example, established online platforms such as Facebook or the Internations network are often used for information exchange about rights and opportunities in the host countries, while Danish schools, such as the Scandinavian School in Berlin, the Danish school in London and the one in Washington, are financed and run privately (Mouritsen and Jensen 2017).

### 8.2.3 Key Engagement Policies

Denmark provides general consular assistance to Danish citizens abroad under the Foreign Service Act (*Lov om Uderingstjenesten*, Law 150 of 13.04.1983 amended by law 331 of 14. 05.1997, § 1 in law nr. 410 of 6.06.2002, law nr. 753 of 2.06.2015 and law 316 of 25/04/2018), complemented by internal regulations, such as the Instructions on Consular Affairs (*Borgerserviceinstruksen*, not publicly available) and the executive orders which detail paid services provided by the Danish foreign services. Consequently, consular assistance is provided under the law and not as a matter of policy (CARE 2010:146).

No separate national consular law exists. The section 1(3) of Law 150 of 13.04.1983 (amended by Law 410 of 6.06.2002) stipulates that the Danish Foreign

<sup>10</sup>Communication with a representative of Danes Worldwide. Accessed 24 August 2018.

<sup>11</sup>For details, see <http://storbritannien.um.dk/en/About%20Great%20Britain/danish-organisations-and-institutions-in-the-uk/>. Accessed 24 August 2018.

<sup>12</sup>For details, see <http://sverige.um.dk/da/om-sverige/danske-foreninger-og-menigheder-i-sverige/>. Accessed 24 August 2018.

Service assists Danish citizens and Danish enterprises in their commercial relations with foreign countries. This provision is interpreted to include a right to consular assistance. The Instructions on Consular Affairs have the force of administrative circulars and describe how assistance is to be provided. Complaints about inadequate assistance are handled by the Ministry of Foreign Affairs, but can be lodged also through the legal system (CARE 2010:146).

The above-cited CARE report on consular services notes that, according to the Ministry of Foreign Affairs, “providing consular assistance to Danes abroad is one of the highest priorities, and that Denmark offers extensive consular services to its citizens” (CARE 2010: 147). The Ministry’s Annual Reports<sup>13</sup> indeed indicate that financial resources are used for assistance, but do not contain details as to the cases and types of consular support/assistance provided. A look at the website of the Ministry of Foreign Affairs and a reading of the Foreign Service Act (see below) suggest that this assistance is predominantly targeted to Danish citizens travelling abroad and/or finding themselves in special/urgent situations, and less so towards Danish citizens residing abroad, while some information provided targets Danes planning to move abroad.

The Ministry of Foreign Affairs’ Citizens’ Service (*Borgerservice*)<sup>14</sup> provides, through the Danish Embassies and Consulates, services/help in the following situations:

- Advice about transfer of money for return-trip
- Issuance of temporary passports
- Contact a lawyer, in case of arrest
- Contact with relatives in Denmark
- Contact to an insurance company in case of illness, accident or death
- Information on risk areas

In addition, the consulates provide other services as established by the orders VEJ 10215 of 14.12.2017 and BEK 1467 of 11.12.2017. All services are fee-based. Individuals can expect to pay DKK 1.010 (ca. 136 EUR) for each commenced hour for most services that involve some form of personal assistance. Issuance of documents is also, unless otherwise stated, priced at DKK 1.010 (ca. 136 EUR) per document. The consulates offer the following services: visas, processing of work and residence documents for nationals of other countries who will reside and work in Denmark, issuance of copies of driver license for a variety of situations, legalizations and control of Danish citizens’ identity, proof of Danish citizenship of children born abroad of Danish parents, and a variety of commercial/trade-related services, such as authentication of documents, various forms of assistance (drafting letters, procurement of certificates, transfer of documents, etc.). Most of these

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<sup>13</sup> For details, see <http://um.dk/da/om-os/organisation/oko/okonomi/> Accessed 15 March 2020.

<sup>14</sup> For details, see <http://um.dk/da/rejse-og-ophold/udenrigsministeriets-borgerservice/hvad-kan-udenrigsministeriets-borgerservice>. Accessed 15 March 2020.

services are priced between 130 and 195 EUR per document, with lower amounts for driver licences.<sup>15</sup>

The Foreign Ministry's Citizens' Service (*Borgerservice*) explicitly states on the Ministry's website<sup>16</sup> that Danish Embassies and consulates do not:

- Lend money or make bank transactions<sup>17</sup>
- Pay out assistance or pension
- Get a person released from prison or pay for lawyer
- Pay a hospital or doctor
- Get a job or work permit

Each embassy has on its own website general information about the services mentioned above, as well as country-specific information. According to Danes Worldwide, it is possible that embassies/consulates may decide to provide some assistance with contacting the institutions delivering social services, but this is more the exception than the rule, and is done on case-by-case basis.<sup>18</sup>

### 8.3 Diaspora Policies and Social Protection in Denmark

Access to social rights for members of Danish diaspora is directly influenced by the nature and organisation of the Danish welfare state. On the one hand, Denmark has a universal welfare system, where any legal resident of Denmark has the right to access all benefits and services – given fulfilment of conditions for specific benefits. The connection between legal residents and the administrative system managing the whole array of services and benefits is mediated via the portal *Borger.dk*, where individuals not only get detailed information about benefits and services (conditions, rules, laws), but also can directly access the relevant administrative units managing these service/benefits and present their cases/requests. The latter can be done securely online, based on personalized login credentials given to each legal resident. On the other hand, by law, any resident of Denmark intending to move abroad for a period of time longer than 6 months, must de-register himself/herself from the

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<sup>15</sup> *Udenrigsministeriet* (2017). BEK nr 1467 af 11/12/2017. *Bekendtgørelse om betaling for tjenestehandlinger i udenrigstjenesten* (<https://www.retsinformation.dk/Forms/R0710.aspx?id=195130>); *Udenrigsministeriet* (2017). VEJ nr 10215 af 14/12/2017. *Vejledning til bekendtgørelse om betaling for tjenestehandlinger i udenrigstjenesten* (<https://www.retsinformation.dk/Forms/R0710.aspx?id=195140>). For updated list of prices and services, see <http://um.dk/en/travel-and-residence/payment-for-services/>. Accessed 24 August 2018.

<sup>16</sup> For details, see <http://um.dk/da/rejse-og-ophold/udenrigsministeriets-borgerservice/hvad-kan-udenrigsministeriets-borgerservice>. Accessed 15 March 2020.

<sup>17</sup> In special situations, the consulates can decide to provide financial advances. However, as a matter of principle, this is conditional upon a written guarantee or transfer of money to the embassy/consulate in question (CARE 2010, p150).

<sup>18</sup> Communication with a representative of Danes Worldwide. Accessed 24 August 2018.

Central Population Register.<sup>19</sup> As a great deal of social rights are residence-based, it means that as soon as they move abroad for more than 6 months, Danish citizens are losing access to social/welfare benefits. However, some welfare entitlements can be transferred across borders, provided that certain conditions are fulfilled, as the following sub-sections illustrate.

The Danish Government does not have an information dissemination strategy specifically targeting its nationals abroad concerning social protection issues. However, public information concerning the social rights is widely available. In full details, it can be retrieved on the portal Borger.dk. The website of the Ministry of Foreign Affairs and the websites of some embassies contain basic information about social rights of Danish nationals residing abroad (or who intend to move abroad) and possibly links to Danish and host countries' laws and institutions (for examples, see the presentation of the social rights in the following subsections). From 2007, the Ministry of Foreign Affairs opened a 24/7 citizens support center line, which provides telephone assistance. In addition, the Tax Office (SKAT) provides information concerning tax liability and the bilateral agreements on double taxation, both issues of relevance for citizens abroad.

Denmark does not have an explicit repatriation policy. However, in case of death abroad, a Danish embassy or a Danish consulate helps with ensuring that Danish police promptly inform closest relatives in Denmark. The embassy or consulate can advise and assist in the cremation and/or home transport of the urn or coffin – or with local funeral. However, they do not pay for these services.<sup>20</sup> Transportation of a body across border necessitates a special passport (*ligpas*). This can be provided upon presentation of the following documents: 1) death certificate issued by a doctor; 2) registration of death with authorities; 3) document from funeral firm stating the conditions for body transportation; 4) soldering documentation for zinc coffins; 5) embalming documentation. The passport is not needed for urns. The relevant laws concerning repatriation of bodies are Circular 15,480 from 26.09.1983 and Announcement 152 from 14.04.1983.<sup>21</sup>

As a rule, Danish embassies and consulates do not provide in-cash or in-kind contributions to nationals abroad. In exceptional cases only, consulates can decide to provide 'financial advances'. However, as a matter of principle, this is always conditional upon a written guarantee (commitment to reimburse), or a transfer of money to the embassy/consulate in question (CARE 2010:150).

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<sup>19</sup>De-registration is done by directly contacting the Central Population Register (CPR) and officially announcing the intention of residing abroad for more than 6 months. This process is voluntary and no penalties are envisaged for failure to do so. See for details <https://www.dst.dk/en/Statistik/dokumentation/documentationofstatistics/migration-to-and-from-denmark/accessibility-and-clarity>. Accessed 15 March 2020.

<sup>20</sup>For details, see <http://um.dk/da/rejse-og-ophold/hvis-uheldet-er-ude/doesdald/>. Accessed 15 March 2020.

<sup>21</sup>For details, see <https://stps.dk/da/sundhedsprofessionelle-og-myndigheder/ligsyn-og-obduktion/udstedelse-af-ligpas>. Accessed 15 March 2020.

In spite of limited engagement of consular authorities in the area of social protection as a matter of practice, the Danish case is noteworthy for commitment to tight regional cooperation within Nordic region, via the Nordic Convention on Social Assistance and Social Services.<sup>22</sup> The Convention, signed by Denmark, Norway, Sweden, Iceland and Finland, was justified as an addition to the right to social benefits arising from the Agreement on the European Economic Area of 2 May 1992 because “there is still a need for special Nordic rules on social assistance and social services” (quote from the second paragraph of the Preamble). The Convention is periodically renewed/revised/updated, and executive orders are issued for its implementation. As a result of a recent update, the Executive Order of the Nordic Convention of 12 June 2012 on social security and associated administrative agreement was adopted in 2014 (BKI 12 of 18.08.2014<sup>23</sup>) and is currently in force. The Convention complements other agreements between the Nordic states which aim at facilitating mobility of individuals across borders (for example, the 1996 Agreement of mutual access to higher education,<sup>24</sup> or a Multilateral Agreement on Labour Migration which grants unrestricted access to all Nordic Countries’ citizens to the labour markets of the Nordic countries), which all originate in the 1962 Helsinki Treaty – a cooperation treaty between Denmark, Finland, Iceland, Norway and Sweden.<sup>25</sup> The Convention does not provide Nordic countries’ citizens with new/extra rights in the area of social protection, but makes the transfer of welfare entitlements across their borders easier and sets the basis for advanced institutional cooperation in this area among Nordic countries. The existence of these agreements smoothens the administrative burdens for mobility within the Nordic region and may be an additional reason for which additional policies that address diaspora-related issues have not been developed by the Danish Government alone.

Important from the perspective of this chapter, the Nordic Convention, its updates and the subsequent executive orders specify that the administration of welfare entitlements is to be conducted by the public authorities responsible for the delivery of the respective services in the countries of residence or/and home countries, depending on the personal situation of the citizens. The public authorities (listed in the Annex 4 of the Convention) are to set cross-country liaison units for a smooth delivery of services (see Article 12 of the Nordic Convention, and Article 10 of the

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<sup>22</sup> See *Bekendtgørelse af Nordisk Konvention af 14. juni 1994 om Social Bistand og Social Tjenester* (online at <https://www.retsinformation.dk/forms/r0710.aspx?id=83047>); recent version (BKI 12 of 18.08.2014) available online at <https://www.retsinformation.dk/forms/R0710.aspx?id=164155>. Accessed 24 August 2018.

<sup>23</sup> *Udenrigsministeriet* (2014). BKI nr 12 af 18/08/2014. *Bekendtgørelse af nordisk konvention af 12. juni 2012 om social sikring med tilhørende administrativ aftale* (online at <https://www.retsinformation.dk/forms/R0710.aspx?id=164155>). Accessed 24 August 2018.

<sup>24</sup> For details, see <https://www.norden.org/en/declaration/agreement-concluded-denmark-finland-iceland-norway-and-sweden-admission-higher>. Accessed 15 March 2020.

<sup>25</sup> For details, see <https://www.norden.org/en/publication/helsinki-treaty-0>. Accessed 15 March 2020.

Administrative Agreement to the Nordic Convention on Social Security).<sup>26</sup> The implication of these provisions is that other institutions, in particular the representations of Denmark in other Nordic countries, are not involved in the administration and delivery of any social services.

In the following sub-sections, the main Danish social protection policies that concern Danish citizens abroad will be presented. For each policy area, the content of policies/services, as well as eligibility conditions for nationals living abroad (if applicable) are introduced. This overview illustrates that the Danes living abroad qualify for only a fraction of the benefits and services provided by the Danish welfare state. Moreover, it also illustrates the limited role of Danish consulates and embassies.

### 8.3.1 Unemployment

To receive unemployment benefits, a person must be a resident in Denmark and must be a contributing member of an unemployment insurance fund (*A-kasse*) for at least 52 weeks. Special rules apply for graduates, including an exemption from the 52-week contribution period. As a rule, an *A-kasse* member has a right to unemployment benefits for a maximum of 2 years in total within a three-year period.<sup>27</sup> To receive the benefits, the person: (1) must be available for work with one day's notice; (2) must have earned/have had an income of at least DKK 228,348 (in 2018) (ca. 30,611 EUR) during the last three years (in total) for full-time insured, or DKK 152,232 (ca. 20,407 EUR) if is part-time insured (*Indkomstkrevet*)<sup>28</sup>; 3) must register as a job seeker with a local job centre; and 4) demonstrably must actively look for jobs and be willing to accept job offers.

As in all EU Member States, EU legislation allows that a person who is wholly unemployed and entitled to receive unemployment benefits in Denmark can transfer its benefits in another Member State for minimum three to maximum six months if the move abroad is with the aim of searching for jobs. The *A-kasse* webpages provide information on the conditions attached to this transfer, which include proven registration with a job-centre abroad within one week of establishing residence.<sup>29</sup> If a Danish citizen opts for a short-term transfer of unemployment benefits abroad in the conditions highlighted by relevant legislation, is the person's own responsibility to ensure that the conditions and documentation required is correct and processed on time. The rules apply only if the transfer occurs between two EU countries and

<sup>26</sup> Udenrigsministeriet (2014). BKI nr 12 af 18/08/2014. *Bekendtgørelse af nordisk konvention af 12. juni 2012 om social sikring med tilhørende administrativ aftale* (online at <https://www.retsinformation.dk/forms/R0710.aspx?id=164155>). Accessed 24 August 2018.

<sup>27</sup> For details, see <https://www.a-kasser.dk/benefits.html>. Accessed 15 March 2020.

<sup>28</sup> For details, see <https://www.a-kasser.dk/benefits.html>. Accessed 15 March 2020.

<sup>29</sup> For details, see <https://a-kasser.dk/transferring-unemployment-benefits.html>. Accessed 15 March 2020.

are covered by EU regulations. The Nordic Convention on Social Assistance and Social Services does not provide for any additional benefits in case of unemployment. Unemployment benefits from Denmark cannot be transferred if a person moves to a non-EU country. The Social Security Agreement signed in 2008 between Denmark and US does not concern transferability of unemployment benefits.

Overall, the rules concerning unemployment benefits in Denmark imply that a Danish citizen residing on the territory of another country cannot receive unemployment benefits from Denmark, except for a limited period of time.

As to institutional support, the Danish embassies and consulates do not have any attributes concerning the access and distribution of Danish unemployment benefits, or in helping Danish nationals to access these benefits abroad. Among the five countries of interest, only the Danish embassies in Sweden, Norway and Germany provide information concerning the unemployment rules and institutions to be contacted.

### 8.3.2 Health Care

All legal residents in Denmark are entitled to public healthcare benefits in kind. The legal residence criterion implies that once a person moves his/her residence abroad, he/she is not covered anymore by the public healthcare scheme. Danish citizens abroad are expected to be covered by the healthcare schemes existing in the host countries.

In addition to access to healthcare via de national healthcare system, Danish residents can qualify for sickness benefits (*sygedagpenge*) if they are unable to work because of illness or because of injuries. A person can receive sickness benefits from the first day of not being able to work. The payment of sickness benefit ends on the day the person returns to work. As a general rule, the recipients of sickness benefits must live in Denmark and pay income tax in Denmark. However, there may be exceptions, as provided in EU legislation, if the recipient of the sickness benefits lives in another EU country or move within the EU or to a country with which Denmark has entered into a separate agreement.<sup>30</sup> For Danes living in the US, the social security agreement signed in 2008 between Denmark and US does not concern transferability of sickness benefits or other health-related rights.

The law on sickness benefits details the conditions under which sickness benefits can be paid abroad: if the stay abroad has been recommended by medical doctor; if it was approved by the National Health Board; if the person works abroad for maximum one year for an employer in Denmark; if the person is covered by EC Regulation No 1408/71 or if the person is covered by Danish social security

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<sup>30</sup>For details, see <https://www.borger.dk/arbejde-dagpenge-ferie/Dagpenge-kontanthjaelp-og-sygedagpenge/Sygedagpenge/sygedagpenge-hvis-du-er-ledig>; see also Beskæftigelsesministeriet (2018). LBK nr 809 af 20/06/2018 *Bekendtgørelse af lov om sygedagpenge* (online at <https://www.retsinformation.dk/Forms/R0710.aspx?id=202058>). Accessed 24 August 2018.



legislation under an international social security agreement (see §3, para 2 and §18 of the Law 809 of 20.06.2018<sup>31</sup>). The sickness benefits are disbursed by municipalities, which have (according to §18 of the law 809 of 20.06.2018) the possibility of convening the recipient of sickness benefits (even if he/she resides abroad, at municipality's cost) for case evaluation. As a general rule, a person can receive sickness benefits for a maximum of 22 weeks within a nine-month period. Before the 22 weeks have elapsed, the municipality will reassess the case to determine whether conditions are met for an extension the sickness benefit period. The conditions are detailed on the Borger.dk portal.<sup>32</sup>

In the area of health, Danes who move to another Nordic country enjoy a certain degree of support. Article 7 of the Nordic Convention refers to the situation when a person residing in a Nordic country and entitled to benefits in kind there temporarily receives a treatment in another Nordic country. In this case, the country of stay (the latter) shall cover the additional expenses incurred on returning to the country of residence. This provision does not apply to persons who are allowed to travel to another Nordic country for the necessary treatment. Similarly, Article 6 of the Administrative Agreement clarifies the administrative procedures and the fact that a decision on reimbursement shall be taken by the relevant institution in the place of residence before returning.<sup>33</sup>

Given the existing institutional support for health care, the Danish embassies and consulates do not have any attributes concerning healthcare- and sickness benefits-related issues. The embassies in Sweden, the UK, Norway and Germany provide information about healthcare systems in both the host countries and Denmark, while the embassy in the US does not provide this kind of health-related information.

### 8.3.3 Pensions

Danish citizens have the right to receive their Danish pension abroad, but conditions apply depending on the type of pension (old age or early) and the country where a retired person intends to move in order to reside. Detailed explanations are provided online on Borger.dk.<sup>34</sup> In addition, the possibility of Danish citizens to take/receive Danish pensions (and additional benefits) abroad is regulated by the Nordic Convention on Social Security, which applies for the case in which Danish citizens

<sup>31</sup> For details, see LBK nr 809 af 20/06/2018 (online at <https://www.retsinformation.dk/Forms/R0710.aspx?id=202058>). Accessed 24 August 2018.

<sup>32</sup> For details, see <https://www.borger.dk/arbejde-dagpenge-ferie/Dagpenge-kontanthjaelp-ogsygedagpenge/Sygedagpenge/Sygedagpenge-hvis-du-er-loenmodtager>. Accessed 24 August 2018.

<sup>33</sup> For details, see BKI nr 12 af 18/08/2014 (online at <https://www.retsinformation.dk/forms/R0710.aspx?id=164155>). Accessed 24 August 2018.

<sup>34</sup> For details, see <https://www.borger.dk/pension-og-efterloen/International-pension/Dansk-pension-i-udlandet/International-pension-flytte>. Accessed 24 August 2018.

reside on the territory of another Nordic state. Pursuant the Article 9 of the Nordic Convention, complemented by the Administrative Agreement, whose Article 10 focuses on administrative implementation of the Nordic Convention, if calculations of pension rights involve taking into account residence periods in different Nordic countries – the respective institutions managing pension rights in these countries will exchange the relevant information. In addition to the Nordic Convention, the social security agreement signed in 2008 between Denmark and the US regulates the transferability of pensions between the two countries.

In what concerns the payment of pensions abroad, *Udbetaling Danmark* (Payment Denmark) is the sole institution in charge.<sup>35</sup> *Udbetaling Danmark* must be contacted directly by Danish citizens who intend to move abroad as pensioners, as well as by Danish citizens who become pensioners while residing abroad, as it is the sole institution that evaluates each case and decides whether and how a Danish citizen can receive pension abroad. Once a year, *Udbetaling Danmark International Pension* asks pensioners abroad to certify they are alive. On May 1st, *Udbetaling Danmark* send a life certificate to pensioners abroad by post. The deadline for answering is August 31st. This communication takes place directly between pensioners and *Udbetaling Danmark*. Therefore, as a rule, Danish embassies and consulates do not have attributes in relation to pensions. At most, some provide web-based information to redirect citizens towards institutions that manage pensions, as it is the case with the embassies in Sweden, Norway and Germany. However, upon request and at a cost, Danish consulates may provide the life certificate form and assistance with filling it.<sup>36</sup>

### 8.3.4 Family-Related Benefits

Family benefits are mostly targeted to children via children allowance (*børneydelse*), children support (*børnetilskud*), and children contribution (*børnebidrag*). Partner contribution (*ægtefællebidrag*) is paid in case of divorce or separation.

This section focuses on benefits concerning children, as they are the most important family benefit. As a general rule, a child is entitled to any of the benefits if she/he does not receive other public funds and has not entered into marriage. An earnings principle also applies: under the Law on child allowance and advance payment of child support (LBK 63 of 21.01.2019), the child provider/carer must have been resident or employed in the kingdom for 6 years in the last 10 years in order to qualify for full benefit. Last but not least, there is a residence principle: the child provider/carer must have permanent residence in Denmark and that the child is

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<sup>35</sup> *Udbetaling Danmark* is responsible for a number of public services – such as housing support, old-age pension, early retirement, maternity allowance, family benefits, international retirement, international social security, funeral care, retirement benefit, compliance assistance and flexible care.

<sup>36</sup> Communication with Consulate worker. Accessed 22 November 2018.

actually living in Denmark. The implication of these residence criteria is that, as a rule, Danish nationals abroad do not qualify for Danish child benefits, and are expected to obtain child benefits in the countries where they reside, if they qualify for them.<sup>37</sup>

However, three exceptions exist from the residence rule. First, if the main child provider/carer is a retiree who receives a pension while staying abroad, he/she also has the right to receive special child allowance abroad.<sup>38</sup> Second, children who reside abroad are eligible for benefits in certain conditions: they do not receive any contributions in the country in which they reside; they are on a short-term vacation or they have to go to school abroad. In this latter case, the benefit request must be approved by the municipality in which the child provider/carer claiming benefits resides (see Article 5 of LBK 63 of 21.01.2019).<sup>39</sup> Third, Danish nationals are entitled to child benefits if, while being posted in another EU country or in similar conditions under EC Regulation 883/04, they are covered by Danish social security legislation even if they reside in another EU country.<sup>40</sup>

The rules on nationality and residence may be waived according to international conventions. For example, children of parents from other Nordic countries and children of persons who, under EC Regulation 883/04 are covered by Danish social security legislation are entitled to child allowances as soon as they reside in Denmark. The same applies when Danish parents reside in other Nordic countries. In addition, Article 11 of the Nordic Convention clarifies the procedures through which the authorities in charge of distributing family-related benefits in the Nordic countries where Danish citizens reside must communicate with Danish authorities when they calculate these benefits.<sup>41</sup> On the contrary, the social security agreement signed in 2008 between Denmark and the US does not concern transferability of family-related benefits.

*Udbetaling Danmark* is solely in charge for paying out the family-related benefits, and claimants must contact/apply to the agency directly. As a rule, decisions concerning eligibility are made by *Udbetaling Danmark*. Consequently, Danish embassies and consulates have no attributes concerning family benefits, but some (like the ones in Sweden, Norway and Germany) provide online information

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<sup>37</sup> *Beskæftigelsesministeriet* (2019). LBK nr 63 af 21/01/2019 *Bekendtgørelse af lov om børnetilskud og forskudsvis udbetaling af børnebidrag* (online at <https://www.retsinformation.dk/Forms/R0710.aspx?id=205362>).

<sup>38</sup> Unless otherwise specified, information in these paragraphs comes from the Danish Agency for Labour Market and Recruitment (*Styrelsen for Arbejdsmarked og Rekruttering*), <https://star.dk/ydelser-og-ferie/boligstoette-boernetilskud-og-hjaelp-i-saerlige-tilfaelde/boernetilskud/>. Accessed 24 August 2018.

<sup>39</sup> *Beskæftigelsesministeriet* (2019). LBK nr 63 af 21/01/2019 *Bekendtgørelse af lov om børnetilskud og forskudsvis udbetaling af børnebidrag* (online at <https://www.retsinformation.dk/Forms/R0710.aspx?id=205362>). Accessed 24 August 2018.

<sup>40</sup> For further information, refer to the guidance of 31 May 2010 on the EC Regulation on Social Security Coordination Nos. 883-2004, Part IX – Family Benefit Guide.

<sup>41</sup> For details, see BKI nr 12 af 18/08/2014 (online at <https://www.retsinformation.dk/forms/R0710.aspx?id=164155>). Accessed 24 August 2018.

about these benefits. However, consulates do have some attributes related to families: they register applications for proof (*bevis*) or preservation (*bevarelse*) of Danish citizenship (for children born abroad from Danish parents), but they do not issue birth certificates.<sup>42</sup>

### 8.3.5 Economic Hardship

Cash assistance (*kontanthjælp*) is the basic support provided to all legal residents in Denmark, provided that certain conditions are fulfilled, including a rule of proven minimum 225 h of regular work (unsupported by public means, for example via subsidized jobs) in the 12 months prior to the request to receive cash assistance. Details are provided on Borger.dk portal.<sup>43</sup> Recipients of cash assistance are divided into two categories: “ready to work” (*jobparat*) or “ready for activation” (*aktivitetssparat*). They must be in close contact with the job centre responsible for their case, fulfil all the conditions for cash assistance and must be available for work on short-term notice (first category), or participate in preparatory activities for the labour market (the latter category). Therefore, Danish citizens who move abroad with the intention to reside in another country while on cash assistance lose the right to receive it. Danish citizens who reside abroad and fall on tough times cannot claim any cash assistance from the Danish state. Moreover, neither the Nordic Convention, nor the social security agreement signed in 2008 between Denmark and the US provide for possibilities of receiving support from the Danish state in case of economic hardship.

Danish embassies and consulates have no attributes concerning cash benefits-related issues. None of the embassies for the five countries included in this overview provides information about accessing this type of benefit, neither in Denmark nor in the host countries.

## 8.4 Conclusions

This chapter found evidence that suggests that the Danish state’s engagement with its diaspora is – at least for the time being – limited. Concerning social protection, the study has found that Danish citizens living abroad receive very few social benefits from the Danish state. A main reason for this state of affairs is the fact that most

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<sup>42</sup>For details, see <http://uim.dk/arbejdsomrader/statsborgerskab/danske-statsborgere>. Accessed 15 March 2020. An application for the preservation of Danish nationality must reach an Embassy or the Immigration and Integration Ministry at the latest the day before the age of 22 years. If a person makes the request after the age of 22, the person must apply for proof of Danish citizenship.

<sup>43</sup>For details, see <https://www.borger.dk/arbejde-dagpenge-ferie/Dagpenge-kontanthjaelp-og-sygedagpenge/Kontanthjaelp/Kontanthjaelp-under-30-med-uddannelse>. Accessed 15 March 2020.

of the benefits provided by the Danish welfare state (with the exception of pensions) are conditioned by residence. Moreover, some require additional proofs: for example, proof that a person has worked in Denmark a certain number of years (as in the case of child benefits) or proof that a person is actively looking for work and engaged in improving labour-market skills (as in the case of unemployment benefits). Only in very limited instances the benefits can be transferred abroad. If they find themselves in a situation in which they can transfer some of the welfare benefits across borders, the Danish citizens rely on a well-developed administrative system that allows them to directly contact public authorities online with queries and applications. Therefore, it does not come as a surprise that the Danish embassies and consulates provide very limited services to Danish citizens abroad in the area of social protection. Moreover, as a rule, these institutions do not intervene in favour of Danish citizens experiencing difficulties with their host countries' welfare system.

In addition to the restrictive legal framework, two other factors may explain the limited engagement of the Danish state in diaspora affairs. The first one is the rather negative image that emigrants had in public discourses for most of the last decades. As the sustainability of the Danish welfare state became more of a core topic of contention for policy-makers, the notion that it needs sustained engagement from all members of the society has moved at the forefront of many debates. Contributing by paying the taxes has become thus the criterion according to which individuals' worth in society was judged. In this context, it does not come as a surprise that emigrants were perceived as individuals whom, after benefitting from the welfare state—particularly healthcare and education—do not pay their fair share when it comes to pay taxes (as they choose to pursue a career abroad). In the context of such a negative discourse, it can be argued that Governments were not interested to appear supportive of emigrants with diaspora building policies, or by extending rights to this group.

The second factor has to do with the supra-national institutions and organisations Denmark belongs to. There are several EU regulations that protect the social rights of intra-EU mobile EU citizens (EC Regulation 1408/71 and EC Regulation 883/04). In addition, the Nordic countries have been engaged in a sustained effort to develop and deepen cooperation in the Nordic area. After the Helsinki Treaty (1962) has set the bases of this cooperation, several agreements have been signed with the aim of enhancing the mobility of Nordic citizens among the Nordic countries. These agreements remove the barriers from access to education and labour market, and enhance cooperation between administrations for the calculation and disbursement of social benefits. The existence of these supranational agreements has in all likelihood increased the perception in Denmark that the rights of Danish citizens residing in other countries – in particular in EU and Nordic area – are well protected and secure, and therefore diminish the pressure to create policies specifically targeted at the diaspora.

There are however signs that the Danish Government is interested in developing a new approach towards its diaspora. Accompanying the more positive tone in recent public debates, and the increased awareness about the achievements of Danes

abroad, the Government has recently launched a few initiatives aimed at strengthening the bonds between the Danish state and Danish diaspora in the future.

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# Chapter 9

## Diaspora Policies, Consular Services and Social Protection for Estonian Citizens Abroad



Maarja Saar

### 9.1 Diaspora Policy Infrastructure and Key Policies

This chapter focuses on Estonian policies oriented towards nationals abroad. The main premise is that the Estonian diaspora policy has largely been culture and language focused and paid little attention to social protection. The chapter also suggests that the focus is shifting away from language and culture and becoming more business oriented, with initiatives such as the e-residency and the Global Estonian Network. The diaspora in this context is seen as useful for reviving the country's economy and providing access to foreign markets.

Furthermore, one can speculate that an important shift in respect to return migration is taking place. For several years, Estonian policies have been geared towards supporting outmigration and treating return migration as a natural part of the process. This is evident, for instance, from the Social Minister Hanno Pevkur who claimed in 2010 the outmigration of Estonians was not a problem and was mostly related to economic issues. However, he continued, these Estonians would surely return one day due to their loyalty for the country (see Raus 2010). Even though the state has in a small measure supported return migration through fiscal means, few returnees have used the scheme. This chapter also points out that policy-makers' attitude towards migration is now slowly changing, as the country is facing both the inflow of foreign migrants and the return of Estonian migrants with family members who do not speak the language and face integration difficulties. Therefore, the state has introduced several language and culture programmes as well as courses introducing the Estonian labour market to foreigners.

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### 9.1.1 *The Estonian Diaspora and Its Relations with the Homeland*

Tammaru et al. (2010) note that the Estonian diaspora has been formed by three major waves of outmigration, two in the past and one ongoing since 1991. The first and largest wave started in mid-nineteenth century, lasted until the outbreak of World War I in 1914, and was predominantly eastwards. Tammaru et al. (2010) explain that this flow resulted from the limited options for urban migration for Estonia's rural communities that pushed many people to seek opportunities in Russia. By the start of World War I, out-migrants to Russia amounted to about 20% of Estonia's population. They established many Estonian settlements across Russia. However, many of these people decided later to return to Estonia. The second historical wave comprised refugees from the emergent Soviet regime in the country during World War II and was mostly oriented towards the West, with Sweden and Germany as the main host countries, but also the United States of America (USA) and Canada. Tammaru et al. (2010) estimate that the number of World War II refugees from Estonia to around 70,000–80,000. Unlike the eastwards diaspora that steadily decreased over a period of six decades, the diaspora towards the West remained relatively constant over time. For instance, the fact that Estonia regained independence in 1991 had a significant effect on the number of Estonians living in Russia, with half of them returning back to Estonia. By contrast, the events of 1991 had little effect on the diaspora residing in the USA or Canada.

The third and most recent wave of migration from Estonia is a westwards movement ongoing since the regaining of independence. This new wave has been characterised by heavy circular migration, as well as return migration (Saar 2016). The main destination country for these more recent migrants has been Finland.<sup>1</sup> Due to the geographical proximity of Finland, a new type of migrant has emerged – the cross-border commuter (Fröhlig et al. 2017). They are mostly male migrants who maintain their families in Estonia while working in nearby countries such as Finland, Sweden and Norway. An interesting aspect about the third wave of migration is that the general educational level of these migrants is lower than that of the Estonian population in general (Anniste et al. 2012). Furthermore, Anniste et al. (2012) have found highly skilled migrants are more likely to return to Estonia than low skilled. This, as this chapter will later suggest, can be related to Estonia's neoliberal political direction. Even though a great number of third wave migrants from Estonia can be considered economically motivated, new and important motivations related to personal and career development as well as the availability of higher studies abroad, have emerged. For the latter purposes, the United Kingdom (UK) seems to be the preferred destination (Saar 2018).

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<sup>1</sup> *Statistika Amet* 2017. *Eesti Statistikaamet. Väljaränne soo, vanuse ja sihtriigi järgi*. <http://pub.stat.ee/px-web.2001/Dialog/varval.asp?ma=RVR04&ti=V%C4LISR%C4NNE+SOO%2C+VANUSER%DCHMA+JA+L%C4HTE%2FSIHTRIIGI+J%C4RGI&path=../Database/Rahvastik/03Rahvastikusundmused/08Ranne/&lang=2>. Accessed 16 April 2019.



There was another migration flow, chronologically the third, between 1940 and 1989/1990, which has had a major impact on Estonian migration policies. This was the flow of immigrants from the Soviet Union, most of which Russians and Russian-language speakers. Currently, about 30% of the Estonian population is Russian-speaking, this including people from other Slavic countries such as Belorussia and Ukraine.<sup>2</sup> The presence of a large Russian minority in Estonia has resulted in the state viewing dual citizenship as illegal. The policy is primarily aimed at motivating the Russian-speaking population to apply for Estonian citizenship because there is a strong negative stance towards people having dual citizenship of both Russia and Estonia. Nevertheless, the presence of the sizeable Russian-speaking population in Estonia has resulted in pension agreements with Russia. Still, the tensions concerning dual citizenship have led to the major focus on migration and integration related issues being on the Russian-speakers and less on Estonians abroad.

Overall, Estonian migration flows could be characterized as being four major waves: the outflow of Estonians towards Russia from the 1850s up until the beginning of World War I; the outflow of Estonian refugees to the West during World War II; the inflow of Russian-speakers during the Soviet period 1940–1941 and 1945–1990; and finally, the outflow of (economic) migrants to the West after Estonia regained independence in 1991.

### 9.1.2 Diaspora Infrastructure

Estonia does not have a special ministry or a subsection of the ministry that specifically deals with co-nationals abroad. Therefore, the responsibilities concerning this segment of the population are divided between different ministries, such as the ones responsible for Foreign Affairs, Culture, Education and Social Affairs. In addition, some foundations engage with issues related to all nationals abroad, such as the Foundation of Integration and agencies such as the Estonian Agency for Research. Both foundations are administered by the state. The Ministry of Culture is responsible for the Foundation of Integration, while the Ministry of Education is responsible for the Estonian Agency for Research.

Estonia has consulates in 34 countries,<sup>3</sup> as well as a number of honorary consulates,<sup>4</sup> but does not have any mobile consular services. There is a higher

<sup>2</sup>Statistika Amet 2017. *Statistikaamer. Rahvastik soo, vanuse, rahvuse ja maakonna järgi*. [http://pub.stat.ee/px-web.2001/Dialog/varval.asp?ma=RV0222U&ti=RAHVASTIK+SOO%2C+RAHVUSE+JA+MAAKONNA+J%C4RGI%2C+1%2E+JAANUAR%2E+HALDUSJAOTUS+SEISUGA+01%2E01%2E2018&path=../Database/Rahvastik/01Rahvastikunaitajad\\_ja\\_koosseis/04Rahvaarv\\_ja\\_rahvastiku\\_koosseis/&lang=2](http://pub.stat.ee/px-web.2001/Dialog/varval.asp?ma=RV0222U&ti=RAHVASTIK+SOO%2C+RAHVUSE+JA+MAAKONNA+J%C4RGI%2C+1%2E+JAANUAR%2E+HALDUSJAOTUS+SEISUGA+01%2E01%2E2018&path=../Database/Rahvastik/01Rahvastikunaitajad_ja_koosseis/04Rahvaarv_ja_rahvastiku_koosseis/&lang=2). Accessed 16 April 2019.

<sup>3</sup>Ministry of Foreign Affairs, Estonian Embassies. <https://vm.ee/et/riigid/eesti-saatkonnad>. Accessed 16 April 2019.

<sup>4</sup>Ministry of Foreign Affairs, Estonian Honorary Consuls. <https://vm.ee/et/riigid/eesti-aukonsulid>. Accessed 16 April 2019.

number of consulates in the countries to which Estonia's World War II refugees fled, such as the previously mentioned World War II refugee host countries. A recent development, due to the high inflow of Estonians to Finland, is that Estonia now has in addition to the consulate in Helsinki, eight honorary consuls spread throughout Finland. In addition to consulates, there are Estonian community organizations that operate in many countries such as Finland, Sweden, Germany, the USA, etc., which the Estonian Government has financially supported in the past. However, since the support is mostly project-based, it is more difficult to map the exact extent of this state support for those organizations. The activities of these organizations vary, ranging from offering Estonian language courses to providing legal help, which depends on the availability of pertinent expertise.

In respect of whom the state regards as a national abroad, the consulates usually refer to people holding Estonian citizenship. The Estonian state does not allow dual citizenship for adults (over 18 years of age), although this is practiced in reality by Estonian citizens that apply for citizenship in countries which do allow dual citizenship. In the context of culture and education, state programs use the word *väliseestlased* (compatriots).<sup>5</sup> Interestingly, in the Program for Compatriots 2014–2020 (*Rahvuskaaslaste Programm 2014–2020*),<sup>6</sup> *väliseestlased* is not a clearly defined group. Furthermore, the report does not clarify whether the word refers only to nationals holding an Estonian passport or to nationals claiming an Estonian ethnic origin as well. This report is not an exception, as programs and institutions in Estonia rarely define who they include as Estonians, although they do refer most frequently to the population abroad as Estonians abroad. Furthermore, the Ministry of Education and Research does not clearly define who the institution includes as Estonians.<sup>7</sup> Therefore, it could be concluded that the term is rather loose and usually includes people having ethnic roots tying them to Estonia.

However, in the context of political participation, the term is slightly clearer. All Estonian citizens, irrespective of their residence in Estonia or abroad can vote in national parliamentary elections.<sup>8</sup> The location of primary place of residence in a particular municipality within the borders of Estonia enables all Estonians to vote. Estonian parties' activism abroad is limited and the issues around citizens abroad receive very little attention from them. Still, the Estonian Conservative People's Party has established a subsection in Finland to attract the diaspora's vote and a few other parties advertised on billboards in Helsinki during the last parliamentary elections.

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<sup>5</sup>Education Agency. Compatriots Scholarship. <http://haridus.archimedes.ee/en/compatriots-scholarships>. Accessed 16 April 2019.

<sup>6</sup>Ministry of Education and Research. Program for Compatriots 2014–2020. [https://www.hm.ee/sites/default/files/rahvuskaaslaste\\_programm\\_2014\\_2020.pdf](https://www.hm.ee/sites/default/files/rahvuskaaslaste_programm_2014_2020.pdf). Accessed 16 April 2019.

<sup>7</sup>Ministry of Education and Research. Estonians abroad. <https://www.hm.ee/et/tegevused/eestikeel-ja-voorkeeled/eestlased-valismaal>. Accessed 16 April 2019.

<sup>8</sup>*Riigi Teataja*. Riigikogu valimise seadus. <https://www.riigiteataja.ee/akt/28675>. Accessed 16 April 2019.

### 9.1.3 Key Engagement Policies

In the context of policies of engagement with nationals abroad who account for just over 15% of the total population, the main focus is on language and culture (see Jakobson 2017).

Estonia has been financing the Program for Compatriots (*Rahvuskaaslaste Programm*) since 2004. The program is primarily funded by the Ministry of Education and Research and that of Culture, with support from the Ministries of Foreign Affairs, Internal Affairs and the National Archive. So far, the program has completed two rounds in 2004–2008 and 2009–2013 and is in the midst of a third round 2014–2020. The latest round is tightly connected to the ‘Estonian Language Development Plan 2011–2017’ and the ‘Foundations of Cultural Policy until 2020’. The program has four objectives: teaching Estonian abroad, and supporting the study in Estonia of nationals abroad; the preservation of Estonian culture abroad and support for the formation of Estonian feelings of cohesion; supporting the collection, preservation and availability of an exile cultural heritage (an archival action) and encouraging the return of foreign Estonians to Estonia. Regarding the support for Estonian language teaching abroad, it is worth mentioning that there were approximately 3500 children of expatriates who were studying Estonian in September 2017 (Reimaa 2017). The program has changed its focus in recent years however. Earlier measures were mostly directed towards Estonian communities in the ‘East’ defined as former communist areas and the former Soviet Union which, as Adamson (2009) explained, includes communities in Ukraine, Siberia and Petseri. The latest reforms, however, have also included new migrants in the West (mainly Western European countries such as Germany, Belgium or the UK, according to the Program for Compatriots). Currently, 63 Estonian-language teaching establishments are supported, as well as 80 general education and Sunday schools, societies, kindergartens, playgroups and Estonian language courses (Madison 2018). The original motivating factors for focusing on Estonians in the eastern territories in the 1990s was their poor economic position, and their higher profile activities (Jakobson 2017). The first round of the *Rahvuskaaslaste Programm* supported cultural associations in the East, research dedicated to the Eastern diaspora and cultural heritage. An analysis of the influence of the *Rahvuskaaslaste Programm* indicates the most impacted area has been language teaching.<sup>9</sup> The latest round (2014–2020) has dedicated special attention to supporting secondary education in Estonian initially in countries such as Finland and Sweden, but later also in Belgium, Spain, Luxembourg and Germany (Jakobson 2017). In addition to the onsite language training, an online environment for language studies has been created.<sup>10</sup>

In addition to the *Rahvuskaaslaste Programm*, the Integration Foundation (*Intergratsiooni Sihtasutus*) has been organizing summer camps intended for young people with Estonian roots aged 13 to 18 years. In the scope of *Rahvuskaaslaste*

<sup>9</sup> [https://www.hm.ee/sites/default/files/ty\\_rahvuskaaslaste\\_uuring.pdf](https://www.hm.ee/sites/default/files/ty_rahvuskaaslaste_uuring.pdf). Accessed 16 April 2019.

<sup>10</sup> [www.keelekliik.ee](http://www.keelekliik.ee). Accessed 16 April 2019.

*Programm*, scholarships for youths with Estonian roots are provided in case they are interested in studying in Estonian higher education or vocational schools. The aim is to support the studies of young expatriate Estonians in Estonian public universities, national institutions of applied higher education and vocational education centres. Applications for scholarships are invited from young expatriate Estonians who have not resided in Estonia on a permanent basis for at least the last 10 years and who possess a secondary or higher education.<sup>11</sup>

According to the final evaluation of the impact, *Rahvuskaaslaste Programm* was least successful in the four key areas supporting return migration (Aksen et al. 2015). As the evaluation report refers, many expatriates feel the Estonian state is not ready to look after their welfare. This is usually illustrated by referring to the problems with finding school and kindergarten places, the lack of information and the difficulties of integrating into the labour market. Another key issue expatriates referred to is accessibility to the state's repatriation support. This is a one-time support payment with a maximum value of 2000 euro to facilitate the return of those Estonian citizens who are struggling financially. However, the support is only available for those Estonians who have been away for 10 years or more, and thus so far people who migrated after the economic crisis in 2009 have not been able to claim.

Under the scope of *Rahvuskaaslaste Programm*, many Estonian organizations abroad have received some support. For instance, the Association of Estonians in Sweden announces on its webpage that it has received help through the Programme.

In the context of other more general developments in diaspora policy, Enterprise Estonia (a non-profit foundation) has created a website 'Global Estonian Network'<sup>12</sup> that is designed to function as a contact network for Estonians abroad. Despite not being funded by the Estonian Government, the project was included in the action plan for the Government which took office in 2015. The objective is to connect Estonians abroad who have experience with conducting business with Estonian companies to help them access foreign markets. This is an example of how the Estonian diaspora is 'used' for the benefit of Estonia.

Another initiation that only has an indirect connection with diaspora politics has been the e-residency. The program allows non-Estonians to access to Estonian services such as company formation, banking, payment processing, and taxation. The program gives the e-resident a **smart card** that they can use to sign documents. The program is aimed towards entrepreneurs for whom physical location is least important (e.g. software developers, writers, etc.). By September 2018, there had been 46,919 applications for e-residency, of which 44,783 were accepted. About 40% of the applicants list their main motivation for e-residency as having an international business not dependent on the location (hence finding it convenient to register their company in Estonia). 26% expressed a wish to bring their companies to Estonia. Relatively few actually want to live or visit Estonia (6%). Most of the successful

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<sup>11</sup> Education Agency. Compatriots Scholarship. <http://haridus.archimedes.ee/en/compatriots-scholarships>. Accessed 16 April 2019.

<sup>12</sup> <https://globalestonian.com/en/about>. Accessed 16 April 2019.

e-residency applicants live in Finland, followed by Russia, Ukraine, Germany and the USA (i.e. states, with the exception of the CIS, that are major host countries for the Estonian diaspora).<sup>13</sup> However, it is relatively unclear what connection e-residents had with Estonia before applying. Thus, there could be some members of the diaspora among e-residents, especially considering that Estonia does not allow dual citizenship. E-residency could ease developing business relations with Estonia for the diaspora.

As previously mentioned, when it comes to voting, Estonian citizens residing abroad are allowed to participate in general parliamentary elections.<sup>14</sup> Nationals abroad can participate in pre-voting where they do not have to be members in particular municipality in order to vote from there. Additionally, there is an option to vote electronically. Estonian citizens residing abroad cannot vote in municipal elections however. They have the right to be a candidate in parliamentary elections, however cannot run in local elections.

As observed, Estonia prioritizes teaching Estonian language in foreign countries above other policy fields. A viable hypothesis for this choice is that Estonian politics views outmigration as inevitable and ‘natural’. Indeed, Sippola (2013) suggests the Estonian state treats its citizens as profit maximisers, which does not encourage their loyalty. However, an alternative hypothesis would be as the state views individuals as economic entities; outmigration occurs for an individual’s economic benefit and is, therefore, not a social problem. Hence, loyalty for Estonia is not necessarily maintained by presence in the country, but through investing into learning Estonian language and culture. Furthermore, it could be proposed that there is a growing interest in capitalizing on the loyalty of expatriates for business purposes, through initiatives such as the Global Estonian Network.

## 9.2 Diaspora Policies and Social Protection in Estonia

Estonia overall does not have well-established means for helping Estonians abroad in matters of social protection. In general, only basic consular services (such as ordering passports, legalization of documents, issuing marriage certificates, issuing Estonian driving licences, etc.) are available through the consulates.<sup>15</sup> Information for Estonian citizens abroad is mainly provided through consulates’ homepages,<sup>16</sup> which also include very basic information on social protection. The Ministry of Foreign Affairs also provides some general and basic information for travellers for

<sup>13</sup> Republic of Estonia E-residency. E-Residency Data dashboard. <https://app.cyfe.com/dashboards/195223/5587fe4e52036102283711615553>. Accessed 16 April 2019.

<sup>14</sup> Riigi Teataja. Riigikogu valmise seadus. <https://www.riigiteataja.ee/akt/1045561>. Accessed 16 April 2019.

<sup>15</sup> Riigi Teataja. Konsulaarseadus. <https://www.riigiteataja.ee/akt/KonS>. Accessed 16 April 2019.

<sup>16</sup> See e.g. *Eesti suursaatkond Helsingi. Konsulaarinfo*. <http://www.estemb.fi/eng>. Accessed 16 April 2019.

each of the world's countries<sup>17</sup> in addition to the information available through the EU-funded EURES website.<sup>18</sup> Additionally, the main providers of social insurance, which in Estonia are mostly public institutions, usually have subsections on their websites for citizens abroad. This is the case, for example, for the national Health Insurance Fund (*Haigekassa*).<sup>19</sup> In terms of general information strategy, it seems that Estonians abroad are largely expected to be self-sufficient and capable of finding their way through social insurance matters on their own (see Fröhlig, Saar and Runfors 2017). In addition to state supported sources of information, some local communities have organized alternative means for gaining knowledge about destination countries' social insurance systems. For instance, Estonians in Sweden can receive important legal information from a specific webpage.<sup>20</sup> This type of resources is also available to diaspora communities, but frequently the platforms are not state supported.

Regarding the need to register residence abroad, Estonia has the peculiarity of not requiring citizens who leave to deregister from its national population register. Therefore, official statistics on how many Estonians are living abroad can sometimes be untrustworthy, as many migrants might still be registered in Estonia. This peculiar situation does not mean that expatriates have easy access to Estonian social benefits. Those countries that host large Estonian expatriate populations have started to establish an active exchange of demographic and welfare information with Estonia. For instance, Estonia and Finland are now working on making the exchange of data on health and unemployment automatic. The two countries have already initiated the virtual exchange of medical prescriptions and the aim for 2020 is to start exchanging the medical histories of patients when necessary. Therefore, it would quickly become apparent if an individual was about to receive benefits from both countries. In addition, still being registered in the national residency database does not necessarily simplify the return.

The focus on Estonia's diaspora policies is on how to manage return migrants. As previously mentioned, activity in this area has been scant. According to an 'overview of the repatriation policies and practices' (Beusse 2009), Estonia had supported between 2000 and 2009 the return of 879 people with their repatriation support payment (the previously mentioned one-time payment for returnees). The Foundation for Integration (*Integratsiooni Sihtasutus*) is the institution responsible for supporting repatriates. The right of every ethnic Estonian and Estonian citizen to settle in Estonia is provided by Section 36 of the Constitution. In addition, there are two internal documents of the Foundation for Integration on the principle governing the support initiative and how to apply for it.<sup>21</sup> Applicants need to meet certain

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<sup>17</sup> *ResisiTargalt. Albaania*. <http://reisitargalt.vm.ee/riigid/albaania/>. Accessed 16 April 2019.

<sup>18</sup> See *Eures Eesti. Avaleht*. <http://www.eures.ee/soome/>. Accessed 16 April 2019.

<sup>19</sup> *Eesti Haigekassa*. European Health Insurance Card. <https://www.haigekassa.ee/en/kontakt-punkt/healthcare-eu-and-elsewhere/european-health-insurance-card>. Accessed 16 April 2019.

<sup>20</sup> <http://www.elamarootsi.edicypages.com/eesti-organisatsioon-rootsis>. Accessed 16 April 2019.

<sup>21</sup> *Integratsiooni Sihtasutus. Migratsioon*. <https://www.integratsioon.ee/migratsioon>. Accessed 16 April 2019.

criteria. They must be an Estonian citizen or an ethnic Estonian who hold an Estonian residence permit and have emigrated from Estonia at least 10 years earlier or were born in a foreign country and have returned to Estonia permanently within the last 6 months. They need to have registered their place of residence in the Population Registry. They must have preserved a connection with the Estonian culture, have respect for the Estonian state and its constitutional order. Their economic and social situation are sufficiently dire to apply for financial support in order to return to Estonia.<sup>22</sup> Family members of a repatriate receive non-financial help in the form of information and help to navigate bureaucratic issues. Also accompanying children can receive their education initially based on an individual study plan in order to prepare them for Estonian public school (see Beusse 2009). In the context of residence permits, there are not any special regulations for native-born Estonians. There are, however, rules concerning non-Estonian family members of repatriates. Information about the support available for repatriates is mostly disseminated by Estonian embassies and consulates. In terms of possessions, Estonians who have lived in a third country and want to bring back a larger amount than normal of personal items must prove they have lived in that country. Vehicles bought in a third country have to be declared at a customs authority.

Ethnic Estonians returning with a third country citizenship have to apply for a residence permit. Temporary residence permits can be granted if the returnees can prove they have Estonian ancestors. Ethnic Estonians can also apply for reinstatement of the citizenship if they have lost their citizenship as minors, otherwise they will have to apply on the same grounds as foreigners.<sup>23</sup>

In the context of reintegration, Estonia's Foundation for Integration has been organising free Estonian courses at the A2, B1 and B2 socio-economic levels as part of the 'Activities supporting integration in Estonian society' project of the European Social Fund.<sup>24</sup>

People who need to apply for Estonian citizenship must pass an exam in the Estonian language, which also covers Estonia's Constitution and the Citizenship Act. The exam is organized by the National Examination and Qualification Centre.<sup>25</sup> To support their preparation for the exam, the Foundation for Integration offers free courses on both the Constitution and the Citizenship Act.<sup>26</sup>

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<sup>22</sup> *Integratsiooni Sihtasutus. Tagasipöördumisteotus.* <https://www.integratsioon.ee/tagasipoordumistoetus>. Accessed 16 April 2019.

<sup>23</sup> *Politsei ja piirivalveamet. Kodakondsuse taastamine.* [https://www2.politsei.ee/et/teenused/eesti-kodakondsus/koda\\_kondsuse-taastamine/](https://www2.politsei.ee/et/teenused/eesti-kodakondsus/koda_kondsuse-taastamine/). Accessed 16 April 2019.

<sup>24</sup> *Integratsiooni Sihtasutus. Eesti keele õpe.* <https://www.integratsioon.ee/eesti-keele-ope-2015-2020-eng>. Accessed 16 April 2019.

<sup>25</sup> *Politsei ja piirivalveamet. Kodakondsuse eksamid.* <https://www2.politsei.ee/et/teenused/eesti-kodakondsus/eksamid-kodakondsuse-taotlemiseks.dot>. Accessed 16 April 2019.

<sup>26</sup> *Integratsiooni Sihtasutus. Kodakondsuse taotlemise kursused.* <https://www.integratsioon.ee/kodakondsuse-taotlemine-kursused>. Accessed 16 April 2019.

Concerning other services provided to the returnees, the state does not offer or provide accommodation, which has to be arranged independently, although *Integratsiooni Sihtasutus* may partially reimburse travel costs.<sup>27</sup>

Estonian consulates will assist citizens abroad who find themselves in situation of hardship, have a health emergency, etc., in contacting their relatives, protecting their rights or organizing hospital treatments. Consulates can also offer financial help, but usually on the basis of collateral. If collateral does not exist, the consulates can, under special circumstances and with agreement with the Ministry of Foreign Affairs, offer financial help, on the condition the value of the help is returned in full within 90 days. Release from repayment is possible by request to the Minister of Foreign Affairs if the beneficiary of the financial help is certified as bankrupt or an agency of the Estonian state or local government requests release.<sup>28</sup>

Regarding the transportation of earthly remains of expatriates to Estonia, the country of residency is required to inform the Estonian embassy or consulate. If there is no diplomatic representation in the particular country, the relatives of the deceased are instructed to turn for aid to the embassies of other EU countries. Estonia's Consular Law states the consul must assist relatives in transporting the earthly remains to Estonia. However, the embassy must not provide any funds to help with this transportation.<sup>29</sup>

Estonia offers mostly cultural and language oriented programs for its citizens abroad, but services connected to social protection are limited. However, as mentioned earlier, there is a network of Estonian organizations across the world that might receive occasional, mostly project-based funding from the Estonian state, such as the Estonian Guild in London or the Swedish-Estonian Association in Stockholm. These organizations might occasionally provide help for Estonians abroad in legal matters (however this support is oftentimes based on voluntary work by other Estonians abroad). Looking at five core social protection policy areas, we nonetheless found a number of limited interventions by Estonian authorities, which benefit expatriates and citizens abroad.

### 9.2.1 Unemployment

The services provided for expatriates and citizens abroad are defined by Consular Law paragraph 4,<sup>30</sup> and include services such as providing translation and evidence; legalizing a public document issued in a foreign state, at the written request of the person; forwarding the document to the Estonian authorities. In the case of job loss

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<sup>27</sup> *Integratsiooni Sihtasutus. Tagasipöördumistoetus*. <https://www.integratsioon.ee/tagasipoordumistoetus>. Accessed 16 April 2019.

<sup>28</sup> *Riigi Teataja. Konsulaarseadus*. <https://www.riigiteataja.ee/akt/KonS>. Accessed 16 April 2019.

<sup>29</sup> *Maksu- ja Tolliamet. Surmajuhtum välisriigis*. <https://www.emta.ee/et/eraklient/reisimine-saadetised-umbersumine/surmajuhtum-valisriigis>. Accessed 16 April 2019.

<sup>30</sup> *Riigi Teataja. Konsulaarseadus*. <https://www.riigiteataja.ee/akt/KonS>. Accessed 16 April 2019.



and/or seeking unemployment benefits, Estonian consulates can provide documents proving the individual's work record in Estonia (which for Estonians living in the EU can be used to demonstrate eligibility for local unemployment benefits). Nevertheless, in general consulates do not provide any distinct services or financial support to unemployed expatriates.

## 9.2.2 Health Care

Estonia has a public health insurance provided through social tax. Health insurance is available to all who have worked or are working in Estonia, unemployed, and age-related non-working cohorts like pensioners and children. This means that access to healthcare is mostly provided to those who pay taxes in Estonia and is only linked to being registered in the population database for groups such as pensioners, children and unemployed. However, anyone unemployed seeking to access public healthcare must meet certain conditions. For individuals who migrate, a policy providing special access to public health during short visits does not exist. Apart from the EU's free-movers whose access to health is regulated at EU level, there are not any specific services available for individuals abroad.<sup>31</sup> The general conditions for accessing the Estonian health insurance are stated in the Act of Health Insurance.<sup>32</sup>

However, there are certain exceptions under which expatriates are entitled to access healthcare in Estonia. For instance, Estonia grants free access to healthcare to anyone under the age of 19 who is officially registered in Estonia. In the case of expatriate parents who have maintained their children's residence in Estonia, those children are covered by free health insurance. Estonia also offers free healthcare to people receiving pensions in Estonia (including pensioners living abroad), thus allowing access to retirees who have on retirement become expatriates. Finally, Estonians studying abroad at the university are also covered by health insurance. However, in this case, special applications in order to receive entitlement should be made. These signed applications must contain the name and address of the educational institution, student's full name and personal ID number, the duration of the education abroad, as well as personal status data of the representing person from the educational institution.<sup>33</sup> In this case, the health insurance must be renewed each year.

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<sup>31</sup> *Eesti.ee. Arstiabi ja ravi välismaal.* <https://www.eesti.ee/et/tervis-ja-tervisekaitse/tervishoid-ja-arstiabi/arstiabi-ja-ravi-vaelismaal/>. Accessed 16 April 2019.

<sup>32</sup> *Riigi Teataja. Ravikindlustuseseadus.* <https://www.riigiteataja.ee/akt/104052016008?leiaKehtiv>. Accessed 16 April 2019.

<sup>33</sup> *Eesti Haigekassa õppimine välisriigis.* <https://www.haigekassa.ee/kontaktpunkt/ravikindlustus-euroopa-liidus/oppi-mine-valisriigis>. Accessed 16 April 2019.

### 9.2.3 Pensions

All Estonian citizens living in the EU benefit from the EU coordination concerning pensions. However, there are also bilateral agreements with the Russian Federation, Ukraine and Canada. To receive their state pensions abroad, Estonian citizens must file a corresponding application to the Estonian Social Insurance Board. All pensions are taxed. Different rules apply for individuals living in Estonia and expatriates. Residents in Estonia who receive pensions can get supplementary exemption from income tax, although this does not apply to expatriates.<sup>34</sup> However, there are some exceptions and people living in certain countries (mostly EU Member States) do not have to pay tax on their pensions as long as they provide the annual certificate concerning tax residency issued by the tax authority of the country of residence. A valid certificate enables the full payment of an Estonian pension, which is to then taxed in the country of residence. If the residency certificate is missing or expired, the pension attracts 20% income tax.

Since 2018, Estonia requires a proof of life certificate for all individuals who receive an Estonian pension while living in a foreign country. The certificate must be sent to the Social Insurance Board (*Sotsiaalkindlustusamet*) by the first of March every year. When the certificate is not received by the required deadline, pension payments are stopped. However, certain exceptions exist in terms of having to provide proof of life. The certificate is not a requirement for either people with Estonian citizenship or recipients of an Estonian pension who live in Russia, Latvia, Lithuania, Moldova and Ukraine. As an alternative to sending a life certificate, citizens can also visit a local office of *Sotsiaalkindlustusamet* to receive their pension. Expatriates have the option of applying for life certificates either from social institutions in the country of residence or from the Estonian consulate. The consulate issues documents as per paragraph § 30 of Consular Law (Proof of action, *Tõestamistoiming*).

Estonia also has social security agreements with Canada, Ukraine and Russia. The agreements concluded with Canada and Ukraine provide payment of pensions under the same conditions as in EU Member States. The agreement with the Russian Federation provides for Estonia paying pensions to Russians living in Estonia and the Russian Federation paying pensions to Estonians living in its territory. The payment of pensions between Estonia and Russia is regulated by the Estonian-Russian pension insurance agreement (*Eesti-Vene pensionikindlustuse koostöölepe*). One issue this agreement regulates is the payment of pensions earned during the Soviet period. This is important because for pensioners residing in many other countries, any work done in the period before Estonia regained its independence is often not counted for their required period of pension contributions. The mandatory period is 15 years. This particular agreement makes an exception for Estonians residing in Russia. Additionally, the agreement states that if a person does not have the

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<sup>34</sup>For pension-related regulations, see: Republic of Estonia Social Insurance Board. Receiving pensions from abroad and receiving pensions abroad. <http://www.sotsiaalkindlustusamet.ee/en/receiving-pension-abroad-and-receiving-pension-abroad>. Accessed 16 April 2019.

necessary contribution period in one country (15 years in Estonia, 20 years in Russia), the work periods in the two countries will be aggregated. Moreover, the cooperation agreement regulates the starting point of pension payments, as the age for receiving pensions is considerably lower in Russia. The treaty was issued on 14th of July 2011, but is now under revision.<sup>35</sup>

The pension agreement between Estonia and Canada stipulated that an individual's work period in Canada is counted as equal to the period of working in Estonia if the person is not entitled to compensation because he/she does not have sufficient periods of time to be taken into account under the legislation of one of the Contracting Parties. The conditions for pension payments in this case are regulated by the Act of Social Insurance between Estonia and Canada, approved in 2005.<sup>36</sup>

The pension agreement with Ukraine is regulated by the Estonian and Ukraine Social Insurance Act approved in 2010. As mentioned earlier, the pension payment between the two states is largely regulated in the same manner as the EU pension coordination.<sup>37</sup>

### 9.2.4 Family-Related Benefits

Assistance in issues of family is regulated by the Law for family related matters § 3.<sup>38</sup> The legislation stipulates that, if needed, the birth of an Estonian citizen can be registered by consular authorities. However, the birth cannot be registered if it has already been registered in a foreign country. If parents want to register a child whose birth certificate was authorized anywhere but at the Estonian registry, they need to provide legalized documents translated into Estonian, English or Russian.

Birth-related support grants are available if at least one parent is registered in the population register in Estonia and the family does not receive any similar benefits from other countries according to the Family Benefits Acts (*Perehüvitiste seadus*<sup>39</sup>). Other family benefits are usually regulated by residency criteria and thus are not available to expatriates.

<sup>35</sup> *Eesti Vabariigi ja Venemaa Föderatsiooni*. <https://www.sotsiaalkindlustusamet.ee/sites/default/files/content-editors/Dokumendid/evjavfpensionikindlustuslepingeesti.pdf>. Accessed 16 April 2019.

<sup>36</sup> *Riigi Teataja. Eesti Vabariigi ja Kanada vaheline sotsiaalkindlustusleping*. <https://www.riigiteataja.ee/akt/958572>. Accessed 16 April 2019.

<sup>37</sup> *Riigi Teataja. Eesti Vabariigi ja Ukraina sotsiaalkindlustusleping*. <https://www.riigiteataja.ee/akt/207112011002>. Accessed 16 April 2019.

<sup>38</sup> *Riigi Teataja. Perekonnaseisutoimingute seadus*. <https://www.riigiteataja.ee/akt/PKTS>. Accessed 16 April 2019.

<sup>39</sup> *Riigi Teataja. Perehüvitise seadus*. <https://www.riigiteataja.ee/akt/128122017062>. Accessed 16 April 2019.

### 9.2.5 *Economic Hardship*

The provision of subsistence allowance in Estonia is administered by local municipalities. In order to apply, an individual needs to provide documentation for all monthly costs. The subsistence allowance is not available to expatriates. However, Estonians who find themselves in an emergency when abroad can apply to the local consulate for financial assistance. Repayment is usually due after 90 days after receiving it.

## 9.3 Conclusions

As shown in this chapter, Estonia's diaspora policy is more oriented towards language and culture maintenance abroad. According to the evaluation report of the Program for Compatriots (*Rahvuskaaslaste Programm*), a survey conducted in 2015 found that 72% of Estonians living abroad do not feel that the Estonian state needs them and 43% do not feel that there is a positive attitude towards Estonians in Estonia. For instance, Lithuania's 'compatriots' conference<sup>40</sup> presents awards to distinguished Lithuanians living abroad, whereas in Estonia, the same kind of event merely provides a practical overview of the progress of the program (see Jakobson 2017). The results of the evaluation report indicate that whereas there have been investments in maintaining Estonian culture and language abroad, there are other fields concerning identity politics that have been overlooked. In addition, so few returnees took up the offer of financial support that this part of the program has not had a particularly large impact.

Previous research shows that the Estonian policy towards its diaspora and returnees has been influenced by neoliberal ideology. The Estonian diaspora is often viewed, especially when including the more recent migrants, as a group of self-sufficient individuals, rather than a culturally united community. Furthermore, when discussing the potential to return, policy discourses often emphasize free choice and downplay the state's role (see Saar and Jakobson 2015). Fröhlig, Saar and Runfors (2017) also point out that Estonian policy experts believed that the main way to attract returnees is by reviving the country's economy that could lead to increasing the salaries. Other aspects, such as increased social benefits, were rarely discussed by the experts. The idea of expatriates as being self-sufficient is also visible from the initiatives such as Global Estonians, which focus on developing business relations between expatriates and the residents in Estonia.

Such attitudes are exemplified by the support structure or rather lack of it in all five policy areas of social protection analysed in this chapter. However, some support is often provided by local diaspora organizations, but they are rarely financed

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<sup>40</sup>The Compatriots' Conference was a onetime event in 2015 to describe the impact of the second round of the Program for Compatriots.

by the state on a regular basis and are dependent on project funding. This means that local diaspora organizations most often have versatile funding resources, with the Estonian state being only one of their supporters.

Based on expert interviews conducted by Fröhlig, Saar and Runfors (2017) as well as current political discussions, it is unlikely that Estonia will invest more in any of the key support areas or allow easier access to these benefits for expatriates. Whereas the country has shown some developments inspired by social-democratic approaches, its policies are characterized by a strong neoliberal undertone. Hence, there are definite developments that can be observed in diaspora politics, especially that policies have started to move from a cultural basis to a business orientation. However, these developments are unlikely to include significant social benefit-related support for the diaspora or returnees [some inklings towards this can be observed in the final report of the Program for Compatriots (Aksen et al. 2015)]. Rather it is more likely that there will be an increased effort to engage expatriates for business purposes, as the initiative ‘Global Estonian Network’ has shown.

Among the areas of possible evolution, we can find the readiness for accommodating children and, to some extent, family members of Estonian returnees. The need for these kind of developments is also mentioned by the evaluation report for *Rahvuskaaslaste Programm* compiled in 2015 (Aksen et al. 2015). The report suggests assigning a support person for the returnees who is meant to assist them in various issues. In recent years, Estonia has also accepted some refugees and has been faced with the need to introduce more language preparation classes and to think about integrating migrant children into Estonian schools. Even though Estonia has had years of experience with the Russian-speaking minority, the issues there have been dealt with by introducing a parallel school system. Less developments can however be seen in terms of accommodating family members that might not have Estonian roots.

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# Chapter 10

## Diaspora Policies, Consular Services and Social Protection for Finnish Citizens Abroad



Maili Malin

### 10.1 Introduction

This chapter provides an overview of Finland's diaspora policies in 2018, mainly focusing on the main features and development of policies in the area of social protection. Finland does not have a specific global policy of supporting Finns abroad, but rather a regional one meaning that Finns living in Nordic countries (Denmark, Iceland, Norway and Sweden) have broadly the same rights than nationals in those countries. The same is true when Nordic nationals live in Finland. This is due to the Nordic joint history, a similar culture and societal system, and Nordic languages (except Finnish). The Nordic model is built largely on a tradition characterised by the strong rule of law, active civil society organisations, equality, solidarity and closeness to nature. Finland has special connection to Sweden, since it was part of Sweden for hundreds of years (1323–1809) and in the 1960s and 1970s, hundreds of thousands Finns moved to Sweden to work (Korkisaari and Söderling 2003; Söderling 2017).

In general, entitlement to the Finnish social protection system is mostly tied to permanent type of residence, which can be seen as an obstacle for Finns abroad in accessing social protection from their homeland. In most cases, Finns are entitled to Finnish social protection when they stay abroad less than 1 year. There are some exceptions, like students, posted workers and civil servants who are covered by the Finnish social security system even if their studies or employment abroad lasts for more than 1 year.<sup>1</sup> In spite of the Finnish state's limited engagement with

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<sup>1</sup> Social security institute of Finland Kela. Employment abroad. <https://www.kela.fi/web/en/from-finland-to-another-country-employment-abroad>. Accessed 8 March 2019.

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nationals abroad, Finland has developed an advanced form of cooperation in the area of consular and social security cooperation. This de facto benefits a large share of the Finnish population residing abroad, since Finns and Finnish-origin people concentrate in those countries such as Sweden, Canada, Australia, the United States of America (USA) and, more recently, Southern European countries where Finnish retirees increasingly reside. Next to state policies and programmes, non-state institutions are also active in the area of diaspora's access to social protection.

## 10.2 Diaspora Characteristics and Home Country Engagement

### 10.2.1 *The Finnish Diaspora and Its Relations with the Homeland*

Estimating how many Finnish nationals live abroad is a difficult task. Upon departure, Finns are expected to report to the Local Register Office if they move to another country, but there is no sanction if they fail to do so.<sup>2</sup> In 2018, the population of Finnish nationals residing abroad was estimated at around 300,000.<sup>3</sup> In Germany, there are about 14,000 Finns, 12,000 in Spain and approximately 10,000 in the UK in 2010 (Söderling 2017). Furthermore, it is estimated that 1.6 million individuals of Finnish origin live in 29 countries including people up to third generations.<sup>4</sup> Most Finnish-origin people live in Sweden (700,000), following important waves of recruitment of foreign workers in Swedish industries during the 1960s and 1970s. In the USA, the Finnish-origin population is estimated to be around one million (Korkiasaari and Söderling 2003; Söderling 2017) and is related to important transatlantic movements in the nineteenth century. According to migration statistics, about 10,000 Finns moved abroad each year with the intention to stay there permanently.<sup>5</sup>

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<sup>2</sup>Act of Home Municipality (1994). *Kotikuntalaki* 1994 <http://www.finlex.fi/fi/laki/ajantasa/1994/19940201>. Accessed 3 March 2019.

<sup>3</sup>Ministry of Interior (2018). *Töihin Suomeen – Hallituksen maahanmuuttopoliittinen ohjelma työperusteisen maahanmuuton vahvistamiseksi*. Helsinki: Sisäministeriön julkaisuja numero 1.

<sup>4</sup>Ulkosuomalaisparlamentti (2017). Hallituksen ulkosuomalaispoliittinen ohjelma vuosiksi 2017–2021.

<sup>5</sup>Official Statistics of Finland (2016). Migration [e-publication]. Helsinki: Statistics Finland. [http://www.stat.fi/til/muutl/2016/muutl\\_2016\\_2017-05-17\\_tie\\_001\\_en.html](http://www.stat.fi/til/muutl/2016/muutl_2016_2017-05-17_tie_001_en.html). Accessed 6 March 2019.



### ***10.2.2 Diaspora Infrastructure***

The main Finnish actor that delivers services to citizens abroad are Finnish missions and consulates. The Ministry of Foreign Affairs of Finland is the highest responsible authority governing these missions and their services abroad. Finnish missions assist Finnish citizens and foreigners permanently living in Finland with issues concerning consular services according to the Consular Act (1999). Part of consular services relies on multilateral and bilateral treaties beside obligations under the European Union (EU) law and national legislation.<sup>6</sup>

Consular missions refer to consulates general, consulates, and offices under the administration of a consulate general headed by a career official, or honorary consulates led by an honorary consul. The Consular Services Act 498/1999<sup>7</sup> (amendments up to 896/2015 included) lays down the provisions on the consular functions for the purpose of providing assistance to Finnish citizens or entities or overseeing their interests and rights.<sup>8</sup>

Consular services are given by 90 mission offices in 75 countries. The Finnish embassies and consulates general are located around the world promoting the interests of Finland and Finns abroad in many ways. In addition, Finland has about 400 honorary consulates, who are private individuals taking care of honorary consular tasks on a part-time basis without remuneration. On a specific geographical area, an honorary consul monitors the rights of Finns and foreigners permanently residing in Finland. Together with diplomatic missions, the honorary consul promotes economic and cultural relations between Finland and the country in question. The honorary consul can advise Finnish companies in obtaining information about local business culture and in finding cooperation partners. In distress situation, the honorary consul advises and gives needed guidance for Finnish citizens who are temporarily abroad. He/she may also assist Finns in their contacts with local authorities or the nearest Finnish embassy or consulate. Limited types of notarized certificates can be acquired through an honorary consul. Honorary consuls do not accept passport applications nor do they handle matters pertaining to visas or residence permits and they cannot serve as attorneys in judicial proceedings or as legal advisers (Consular Service Act 498/1999, 10§.)

A key feature of Finland's diaspora infrastructure is the reliance on the Nordic cooperation that allows its citizens abroad to benefit from a favorable treatment from consular and social protection authorities of other states. Indeed, the specificity of Finland is the existence of several agreements with other Nordic countries – Finland, Denmark, Iceland, Norway and Sweden – which allow Nordic citizens and

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<sup>6</sup>Consular and Diplomatic Protection (2010). Legal framework in the EU member states. Firenze, EU Commission, CARE project Citizens Consular Assistance Regulation in Europe.

<sup>7</sup>Consular Service Act 498/1999. <https://www.finlex.fi/fi/laki/ajantasa/1999/19990498>. Accessed 5 March 2019.

<sup>8</sup>Ministry of Foreign Affairs, Finnish Missions abroad. <https://um.fi/missions>. Accessed. 10 March 2019.

permanent residents abroad to turn to another Nordic country's embassy if her/his country does not have a own mission on site (Helsinki Treaty 28/1962 §34). In those circumstances, Nordic embassies are expected to deliver the same services as Finnish embassies, except for the issuance of passports.<sup>9</sup> Beside this advanced form of consular cooperation, the Nordic cooperation includes a wide range of cooperation in the area of social protection, as discussed below.

The Nordic cooperation began in 1954, when passport control was ended between countries. In 1962, the Treaty of Cooperation (Helsinki Treaty) between the Nordic countries was signed following the language agreement in 1981, a common Nordic labour market in 1982, the agreement on social security in 1981, the Nordic Convention on Social Assistance and Social Services in 1994 and the Agreement on Admission to Higher Education in 1997. Additionally, there are about 60 other joint Nordic agreements. These agreements aim to provide equal access to social and health benefits to all Nordic nationals living in another Nordic country. The main official bodies of the Nordic cooperation are the Nordic Council (NC) founded in 1952, and the Nordic Council of Ministers (NCM) founded in 1971.<sup>10</sup>

In addition to the EU and the Nordic frameworks, Finland has several bilateral social security agreements with other countries that concern employees and their family members. Finland has separate bilateral agreements on social security with Australia, Austria, Canada, Chile, China, Greece, Germany, India, Israel, Latvia, Luxemburg, the United Kingdom, the United States, Spain, South Korea and Switzerland. As discussed below, there are some variations concerning the types of benefits included in the country specific agreements.

Next to consular authorities, several non-state institutions deliver services for Finnish nationals abroad in the Finnish or Swedish language. Many of these institutions have regular funding from ministries for maintaining their activities and, in some instances, perform activities abroad with a mandate of the home country authorities. The oldest non-state organisation is the Finland Society (*Suomi-Seura*) whose main office is based in Finland. It is an association that has individual and organisational members around the world. Its mission is to be a unique centre of expertise and service for Finns living abroad. The Finland Society conducts lobbying activities and aims to strengthen the connections between Finland and what it considers to be the 1.6 million expatriate population. In other words, its goals are to promote interactions between expatriates and Finns, cultivate cultural contact and strengthen Finland's image abroad. The Finland Society provides services to Finns abroad by giving advice upon moving from Finland, upon returning to Finland, or in administrative matters related to their life aboard. The advice and help is given

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<sup>9</sup> See footnote 5.

<sup>10</sup> Ministry of Foreign Affairs. Nordic cooperation. <https://um.fi/intergovernmental-nordic-cooperation> Accessed 10 March 2019.

Ministry of Social Affairs and Health. Social Security Internationally. [https://stm.fi/kansainvalinen-sosiaaliturva?p\\_p\\_id=56\\_INSTANCE\\_7SjjYVdYeJHp&p\\_p\\_lifecycle=0&p\\_p\\_state=normal&p\\_p\\_mode=view&p\\_p\\_col\\_id=column-2&p\\_p\\_col\\_count=2&\\_56\\_INSTANCE\\_7SjjYVdYeJHp\\_languageId=en\\_US](https://stm.fi/kansainvalinen-sosiaaliturva?p_p_id=56_INSTANCE_7SjjYVdYeJHp&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&p_p_col_id=column-2&p_p_col_count=2&_56_INSTANCE_7SjjYVdYeJHp_languageId=en_US). Accessed 9 March 2019.

via their website, by phone or by email. Services are given by professional salaried persons and by a lawyer when needed. The organization publishes its own magazine and acts as a secretariat for the Finnish Expatriate Parliament (see below).

Among the key activities that are closely linked to the state, the Finland Society provides grants to Finnish expatriate communities and to Finnish media working abroad. These grants for cultural and recreational activities of expatriate Finns are funded by the Ministry of Education and Culture. One additional activity of the Finland Society is the maintenance of Finnish schools for expatriate children and adolescents in their free time by giving grants to local actors for maintaining the schools and by organising updating education for teachers. In Finnish schools, children and youth can learn and maintain their Finnish language skills and learn about Finnish culture. There are about 140 Suomi-schools in 45 countries and over 4300 children and adolescents participate in them each year (Strandberg 2018).

Another important non-state institution is the Finnish expatriate parliament (*Ulkosuomalais-parlamentti* or FEP, established in 1997) which is funded and operated by the Finland Society.<sup>11</sup> As many as 531 Finnish expatriate organizations in 39 countries have ratified FEP's by-laws. FEP promotes the interest of all expatriate Finns, being their direct link to the Finland Society. Though it is not a public body, it acts as a consultative body providing opinions to foreign authorities in matters of interest for Finns abroad. The politically non-aligned FEP is a cooperative forum, where Finns living around the world collectively decide on issues they deem important. FEP's main target groups are the Finnish Government and Parliament. FEP is a medium through which the collective decisions of Finnish expatriates are transmitted to the Finnish Government and non-governmental organisations. Moreover, FEP is a lobbying organ which ensures that the views of expatriates receive adequate attention in Finnish public policy decision-making. Its activities are based on the initiatives or motions for resolutions made by the Finnish expatriate organisations, and on the subsequent resolutions adopted by their representatives at the parliament assembly session in Helsinki.<sup>12</sup>

These non-state actors play a key role in the design of Finland's policies towards its diaspora. Every 5 years, the Ministry of the Interior coordinates the preparation of the Policy Program for Finns Expatriate (*Ulkosuomalaisparlamentti* 2017) with other ministries, the Finland Society and the Finnish Expatriate Parliament. The thematic policy issues in the program for the period 2017–2021 are: the maintenance of Finnish identity among Finnish descents; the improvement of the legal status of expatriate Finns in Finland; improvements of expatriates' social security and health care; taking into account the knowhow of expatriates for Finnish business life; supporting the return of expatriates and; supporting the academic studies concerning Finnish immigration and expatriates.

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<sup>11</sup> Finnish Expatriate Parliament. *Ulkosuomalaisparlamentti*. <http://www.usp.fi/index.php?lang=uk&PHPSESSID=f0121a7701620a8a5defed8f18b1ff77>. Ministry of Foreign Affairs. Finnish missions abroad. <https://um.fi/missions> Accessed 4 March 2019.

<sup>12</sup> Finland Society (*Suomi-Seura*). <https://suomi-seura.fi/>. Accessed 5 March 2019.

Other non-state institutions that are relevant for Finns abroad are the Finnish Lutheran Congregations. The Finnish Seamen's Mission is a politically neutral non-profit association whose historical mission is to provide a worship and meeting place for Finns abroad. Seamen's Missions are located in Greece, Belgium, Germany, the UK and the Netherlands. The missions have a traditional role of responding to the needs of travelers by providing information on the local context and access to equipment such as telephone, e-mail and, in some cases, accommodation. They also perform an important role in the community life of Finnish communities by hosting weddings and funerals, christenings and other baptisms, Sunday school, confirmation school and bible circles, devotions and religious services. Another relevant institution in the community and religious life of Finns abroad are the Evangelical Lutheran Church of Finland that serves Finns in 37 countries. The local Finnish parish usually serves as meeting points for Finnish communities and provide a place to practice religion, socialize, read Finnish papers and books or take part in various social activities.<sup>13</sup>

### ***10.2.3 Key Engagement Policies***

As the main actor in the implementation of Finnish policies and services to citizens abroad, consulates provide assistance and advice. Beside the traditional passport issues and notarial services, Finns abroad receive services concerning different events of their life course such as birth, marriage, divorce and death. In these cases, the main task of consulates is to forward information to the Finnish Population Information System that is a registry that opens the right to vote to citizens abroad and has implications in terms of access to welfare benefits upon return to Finland.<sup>14</sup>

Consulates assist citizens in distress in cases of sudden illness, accidents or crimes and in any other crisis situation in their host country. Finnish consulates can help victims of crisis so that they can get medical care, immediate assistance, contacts with next of kin, or emergency economic help (see below). In case of a Finn's death, the mission will help when needed with the arrangements related to the burial, cremation or repatriation of the deceased. Burial expenses are repayable by the family members of the deceased person. Lastly, consulates can also provide Finns abroad with a repayable loan in case of distress (see below), whereas honorary consuls only provide assistance by contacting local authorities or the nearest Finnish embassy or consulate general (Act of Consular Services 1999). To confirm the impression that consulates only intervene in a limited way and in exceptional circumstances, the Ministry of Foreign Affairs also identifies on its website a long

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<sup>13</sup> Evangelical Lutheran Church of Finland Global network. <https://evl.fi/>. Accessed 6 March 2019.

<sup>14</sup> Government Decree of Population Information System 2010/128. *Valtioneuvoston asetus väestötietojärjestelmästä* 2010/128 <https://www.finlex.fi/fi/laki/ajantasa/2010/20100128>. Accessed 15 March 2019.

list of activities that Finnish embassies and consulates cannot conduct such as paying hotel and hospital bills or intervening in a legal process.

Outside of basic consular services, a key engagement policy concerns the right to vote of Finnish citizens who are at least 18 years old. The Finnish missions organize advance voting for national parliamentary and presidential elections, as well as for European Parliament elections held in Finland, so that those Finns abroad entitled to vote may exercise this right in Finnish elections. The Population Information System has information about the address of Finns abroad, and it sends them a letter of advice to vote in the nearest Finnish consulate. For the 2015 parliamentary elections, the invitation to vote was sent to 170,000 nationals in 187 countries (Helin 2017). In 2018, Finns abroad obtained the right to vote by mail that was implemented for the first time in the parliamentary elections of April 2019 (Castren 2018). Finnish citizens who are either temporarily or permanently abroad have a right to vote in all national elections and can stand as candidate in national elections.

In terms of economic policy, Finland has double taxation agreements<sup>15</sup> with a large number of countries (including all Member States of the Organisation for Economic Cooperation and Development- OECD), but there are no housing or remittance policy targeting Finnish nationals abroad. On the contrary, cultural and educational programs abroad are numerous, but some—as noted above—are run by the not-for-profit sector that receives funding from the Government to operate. For instance, there are 17 Finnish independent non-profit cultural and academic institutes around the world maintained by a private foundation or fund (in Japan, Denmark, Germany, Sweden, the UK, Norway, Hungary, Greece, Italy, the Middle East, Estonia, Russia, the USA, France, Benelux, Spain). These institutes promote cooperation between Finnish and international cultural and academic organizations and professionals. They are expert organisations supporting Finnish arts, culture and research around the world and thus, they advance Finnish professionals international mobility, visibility and collaboration. Furthermore, they organise exhibitions, seminars, courses and other events, and run residency and mobility programs for arts professionals and researchers.<sup>16</sup>

As noted earlier, a key educational policy consists in supporting 140 part-time complementary Suomi-schools where Finnish languages and culture to Finnish-origin children are taught in 45 countries all over the world. Additionally, there are six full-time primary education Suomi-schools with Finnish curriculum in Spain, Belgium, Estonia and Russia (Strandberg 2018).

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<sup>15</sup> Board of Taxation. *Verohallinto*. Tax treaties. *Verosopimukset*. [https://www.vero.fi/en/detailed-guidance/guidance/49062/tax\\_treatie/](https://www.vero.fi/en/detailed-guidance/guidance/49062/tax_treatie/) Accessed 4 March 2019.

<sup>16</sup> Finnish Cultural and Academic Institutes. Suomen kulttuuri- ja tiedeinstituutit. <https://instituutit.fi/en/>. Accessed 7 March 2019.

### 10.3 Diaspora Policies and Social Protection in Finland

As we will show in this section, Finns abroad who wish to access to the Finnish health and social welfare services see their conditions of access influenced by a series of mechanisms that include their country of residence, the existence of bilateral social security agreements or the existence family ties or property. A key feature of a residence-based social security system like Finland's entails that a person has the right to social security benefits as well as healthcare and social welfare services upon demonstrating that his/her residence in Finland is permanent.

When a Finn moves abroad, he/she needs to notify Kela—the Social Insurance Institution of Finland—about his/her move to another country. As an exception, permanent residents in Finland can live abroad, usually for up to a year, and remain within the scope of the Finnish social security system. Kela determines, governs and delivers family benefits (maternity package, child benefit, partial care allowance) sickness matters (reimbursement for medicine, sickness allowance, travel costs), unemployment-related benefits and services (unemployment benefit, activation model), student's grants, disability pensions and benefits, housing benefits, pension and rehabilitation issues in general. Kela also decides and governs international social and health care matters discussed in this chapter.<sup>17</sup>

Besides informing Kela, citizens who move abroad are expected to also notify the Local Register Office about their move and provide a new address. Maintaining up to date information about their address is therefore critical for Finns abroad to keep their administrative exchanges with Finland and the right to vote from abroad. Still many Finns or residents in Finland do not inform the state authorities about their move abroad and therefore, the Population Information System is not fully reliable when it comes to citizens abroad. While cases of misuse of Finnish social benefits by Finns abroad who are not eligible for these benefits exist, scholars have noted that cases of no-recourse to entitlement by individuals who are eligible are actually much more frequent (Lötjönen 2013; Savolainen 2015; Uhari 2016).

For citizens who return to Finland after residing abroad, the speed at which they regain access to benefits is determined by Kela based on their assessment of the strength of connections of the individual with Finland. The connections are considered close if a person has family members and home (registered home and home municipality, usually private property) in Finland. In making a decision, Kela takes also into consideration individual circumstances like periods of residency abroad and in Finland. However, since access to the Finnish social security system is residence-based, as discussed below, Kela's mission towards citizens abroad consists in informing them about their rights and, most importantly, in determining whether they have the right to receive Finnish social benefits abroad. I will argue that while the EU framework is the prime instrument that regulates access to social protection for Finns abroad, agreements signed between Nordic countries and a limited number of bilateral social security agreements with key destination

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<sup>17</sup> Kela <https://www.kela.fi/>. Accessed 9 March 2019.

countries such as the United States, Canada, Chile, Israel, Australia form the core of Finland's social protection policies towards citizens abroad.

### ***10.3.1 Unemployment***

Like all EU citizens, a Finn can go for job hunting in an EU or European Economic Area (EEA) country or Switzerland and maintain her/his unemployment benefits for maximum 3 months. Similarly, Finns who try to find work outside the EU may maintain their Finnish unemployment benefits temporarily (less than 1 year) if they are also registered as active job seekers in Finland at the same time. This means that if they receive a work opportunity in Finland, they should take it as soon as possible and return to Finland. In addition to these provisions on unemployment benefits, Finns who wish to work abroad can ask for compensation for travel and overnight stays of return trips to seeking job in another EU/EEA country if the work lasts at least 2 weeks and the average working time is at least 18 h a week.

According to the Nordic Convention on Social Security (2014), a 5-year rule applies in determining the unemployment allowance when a person has worked in different Nordic countries and wants to return to his/her home country. This rule means that when a Finn become unemployed in another Nordic country and wants to return to Finland, the employment time in other Nordic country is taken into account when determining the unemployment benefit. However, one precondition is that a Finn or permanent resident in Finland has worked also in Finland or received unemployment allowance from Finland in the previous 5 years before this new unemployment period. Lastly, the role of Finnish consulates is very vaguely defined in this area, but they can give advice and information face to face, by email or by phone in unemployment-related matters to nationals residing abroad.

### ***10.3.2 Health Care***

Finnish nationals have universal health and social insurance in Finland that is governed by Kela. The private health insurance is the most important issue to purchase when travelling outside EU/EEA countries, despite the many bilateral social security agreements. There is some preferential access to public healthcare in destination countries, for example Finnish pensioners living in Chile are entitled to the same public health care services as locals.<sup>18</sup>

However, Finland's most visible engagement for the health care of citizens abroad is visible at the Nordic regional level. The Nordic cooperation in health

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<sup>18</sup>Chile social security agreement. <https://www.choosehealthcare.fi/health-services-abroad/country-specific-information-about-health-services/chile/>. Accessed 10 of March.

matters is particularly advanced with Sweden, Norway, Iceland and Denmark and it concerns only public health care services. It is noteworthy, for instance, that individuals who have the right to social security and health insurance in Finland do not need a European Insurance Card to receive necessary treatment in Nordic countries. Only an ID and a current address in Finland is needed for one to access public health care at the same cost as nationals of that country (Sweden; Nordic Convention on social security 2004.) Similarly, the Convention also provides for the reimbursement of costs for the return journey home from another Nordic country in cases of illness.<sup>19</sup>

Even though these are policies of the destination country, it should be noted that since Sweden hosts one of the largest Finnish community and the Finnish language is one of the official minority languages, different services are offered to this population, which places them in a more privileged position than Finns residing in other destination countries. These services include the right to interpreters in health care, the right to day care and elderly care in Finnish language, the availability of mental health services in Finnish language (psychiatrists and psychologists) in certain areas where there are enough Finnish-speaking people (Korkiasaari and Söderling 2003).

Next to these policies facilitating access to healthcare, there are few Finnish actors involved in the provision of information for accessing healthcare abroad when living overseas. As in many EU Member States, the Ministry of Foreign Affairs provides information on its website on how to prepare oneself for travelling abroad.<sup>20</sup> Similarly, the National Institute for Health and Welfare (THL) maintains web pages where health advices are given and where required vaccination by each country is listed. In particular, the [Choosehealthcare.com](http://Choosehealthcare.com) website run by the Ministry of Social Affairs and Health, the National Institute for Health and Welfare (THL<sup>21</sup>) and Kela provides country specific information about the functioning of health care system in the country, needed vaccination and Finns' right to medical care abroad.

Consulates are the last actors who play a role in access to health care in case of emergencies (including a serious injury or illness). In these cases, consulates may give repayable loan that must be used for immediate and temporary treatment, as well as for returning to Finland. This loan is given in serious health problems regardless of the patient's possibilities at that moment to sign a reimbursement contract (Consulate service law 1999 13§3.). In non-emergency cases, Finnish consulates assist nationals by providing information and advice about local practices and available services. Beside consulates, Kela and the Nordic cooperation, there are also not-for-profit organizations and Finnish churches giving help in emergency situation in many countries like Spain, Greece, Thailand, Turkey and Cyprus. In Spain,

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<sup>19</sup>Nordic Convention on Social Security (2014). <https://www.finlex.fi/fi/laki/alkup/2014-/20140289?search%5Btype%5D=pika&search%5Bpika%5D=sosiaaliturvasopimus> Accessed 15 March 2019.

<sup>20</sup>Foreign Ministry. <https://um.fi/>. Accessed 4 March 2019.

<sup>21</sup>THL. <https://thl.fi>. Accessed 11 March 2019.



a group of Finnish volunteers called SOS Group, provides support services in the event of sudden illness, injury or other emergency. The SOS Group's website also provides up to date information on safety issues and living in Spain.<sup>22</sup>

### 10.3.3 Pensions

Finns moving abroad in their retirement years are allowed to have the pension they earned in Finland without any restrictions. Concerning pension payments abroad, Finland has a bank-based recognition system of citizens that requires beneficiaries to hold a Finnish bank account.<sup>23</sup> In general, access to pensions for Finns residing in another EU Member State is regulated by the EU legislation. Finns residing outside the EU rely on social security cooperation between Nordic countries and agreements with third countries. The agreements with the US, Canada, Chile, and Israel includes old-age pensions and survivors' pensions, the agreement with Australia agreement covers old-age pensions only.

When it comes to the provision of information on how to access pensions earned in Finland, different actors are involved. First, Finnish consulates give advice and redirect citizens to the institutions where they can apply for pensions earned in Finland. Second, Kela's Center for International Affairs provides services for citizens who have questions about their social security and health rights abroad. In addition, the Finnish Centre for Pensions (ETK) gives advice on where to apply for pensions from abroad. Thirdly, Finland Society's senior citizens' advice service maintains a worldwide database of all the services provided for senior Finns abroad. Additionally, different non-state actors such as Finnish parishes abroad, the National Association of Finns in Sweden, Finland Society or Finnish Pensioners' Association are also involved in the delivery of information via websites, hotlines or physical meetings. In Sweden, the National Association of Finns in Sweden (*Ruotsinsuomalaisten Keskusliitto*, RSKL) also goes further than providing information. Namely, it lobbies for healthcare given by Finnish-speaking care providers for the elderly and builds a database of the elderly care institutions where care in Finnish language could be found.

### 10.3.4 Family-Related Benefits

Residence-based social security systems such as Finland's require a certain period of residence to qualify for benefits. If a Finn's stay abroad is temporary – less than 1 year – she/he is generally covered by the Finnish social security system, and is

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<sup>22</sup> [www.sosryhmat.net](http://www.sosryhmat.net)

<sup>23</sup> *Työeläke*. Claim your pension

entitled to family benefits. This means that benefits already in payment can still be paid to her/him while she/he is abroad. A Finn can also apply for new benefits from Kela when living abroad if she/he has a Finnish bank account to ensure the electronic verification of identity.

Next to the specific situation of individuals who move abroad for short periods, Finns living abroad on a permanent basis (i.e. for more than 1 year) are not eligible for family benefits from Kela. The only exceptions to this rule concern family members of posted workers, civil servants, aid and missionary workers, students and researchers who accompany them abroad and live in the same household. These individuals have rights to family benefits even when their stay abroad lasts more than 1 year. Additionally, child benefits can be paid to children aged under 17 years old who stay abroad temporarily. However, if a recipient of partial care allowance of a child starts working in the foreign country, she/he is not anymore entitled to this family benefit, instead she/he moves under the social security legislation of employer's country.

Next to the EU legislation that regulates the right to child benefits for Finns residing in another Member State, some bilateral agreements with third countries also contain provisions in this area. The social security agreement with the United States covers for employees on a temporary assignment in the other country – health insurance, parental allowances and child benefits.<sup>24</sup> The same type of agreement with Israel covers old-age pensions, survivors' pensions, child benefits and maternity grants.

Once more, the Nordic Convention on Social Security provides Finns residing in another Nordic country with a more favorable treatment than those living permanently outside the EU. A Finn and her/his partner and children are eligible for social insurance benefits in the Nordic country of residence or the Nordic country of work on equal terms with the citizens of that country. The family benefit system is quite similar all over the Nordic countries, but the level of benefits depends on the local living costs.

Compared to other states, the role of Finnish consulates in this area is limited by the fact that Finland does not produce birth certificate but instead every birth has to be registered into the Local Register Office (near the home municipality) where the person can order a life certificate when needed. Additionally, consulates abroad produce life certificates based on passport or other valid official identity document. For Finnish children born abroad (to at least one Finnish parent), the destination country's birth certificate of the child should be sent to the specific Finnish Local Register Office in Pietarsaari to ensure that they are registered as Finnish nationals.<sup>25</sup>

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<sup>24</sup>Nordic Convention on Social Assistance and Social Services (1994). <https://www.finlex.fi/fi/laki/alkup/1993/19931481?search%5Btype%5D=pika&search%5Bpika%5D=sosiaaliturvasopimus>. Accessed 13 March 2019.

<sup>25</sup>Local Register Office. When must you notify your return to Finland? [https://www.maistraatti.fi/en/Services/instructions\\_on\\_relaying\\_information\\_about\\_expatriate\\_finns/When-must-you-notify-your-return-to-Finland/](https://www.maistraatti.fi/en/Services/instructions_on_relaying_information_about_expatriate_finns/When-must-you-notify-your-return-to-Finland/). Accessed 8 March 2019.

### ***10.3.5 Economic Hardship***

Finland's social assistance scheme is not exportable but, as noted earlier, Finns temporarily abroad who find themselves in a situation of economic hardship can apply for a repayable loan from consulates. Finnish consulates can help with: a) a grant to respond to immediate distress; b) a home-away allowance (against a repayment commitment if the deposit is not possible); c) borrowing money for travelling back home; or d) loaning money for the necessity and temporary care of a sickness if a Finn cannot obtain a deposit. Consulates may still help a Finn economically when she/he cannot give back a loan repayment due to the severity of her/his illness or other comparable cause (Act of Consular services 1999.).

## **10.4 Conclusions**

In this chapter, we have shown that Finland does not have a widespread infrastructure nor a large amount of public policies or programmes that are specifically dedicated to its population abroad. In line with the presence of 1.6 million individuals of Finnish origin, the focus on Finland has traditionally been on religious, cultural and educational programmes over any other type of engagement with this population. In addition to the absence of diaspora specific public institutions, the Finnish consular network has very clearly defined missions which sets strong limits to the type of assistance Finnish citizens abroad can expect to receive. While this could lead to the conclusion that Finland is largely disinterested in its population permanently abroad, two specificities of the Finnish case still deserve to be highlighted. First, historically Seamans' Missions and more recently, Finnish Church have helped Finns aboard in need of help. Additionally, there is a strong network of Finnish non-profit organizations that take over some of the missions in the area of diaspora policies that most states usually give to public authorities. For instance, non-profit organizations run a consultative body that ensures the dialogue between the diaspora and Finnish authorities. Similarly, they also deliver a series of services in the area of social protection often thanks to project-based financial support of Finnish authorities. In that sense, it can be argued that Finland has a somewhat decentralized approach to diaspora engagement. Secondly, the focus on five social protection dimensions has highlighted that—while Finland has a residence-based welfare system—its commitment to cooperation with Nordic countries entails a large share of the diaspora concentrates de facto benefits from an access to destination country social protection systems that is more favourable than what is set by the EU framework. This commitment to Nordic cooperation allow to conclude that—far from being disengaged—Finland's take on diaspora engagement is characterized by a strong commitment to regional integration. Summing up, the diaspora policy of the Finnish Government could be characterised as “reactive” to both the changing nature of Finnish mobility (i.e. increased tourism) and the concentration of its emigration in Nordic countries.

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# Chapter 11

## Diaspora Policies, Consular Services and Social Protection for French Citizens Abroad



Jean-Thomas Arrighi and Jean-Michel Lafleur

### 11.1 Introduction

This chapter presents the general overview of France's policies towards its citizens abroad, with a focus on social protection policies.<sup>1</sup> In spite of policy-makers' focus on immigration, France has also experienced considerable emigration in recent decades. Following a brief presentation of the country's diaspora infrastructure, we introduce its key diaspora engagement policies, with a particular focus on consular policies and France's extensive external franchise, regarding both expatriates' electoral participation as well as their political representation in the French Parliament. We then discuss in detail the conditions of eligibility and access to social protection for non-resident citizens in the areas of unemployment, healthcare, pensions, family benefits and economic hardship. Overall, the chapter argues that, as a result of its colonial history, its continued ambition to be a global actor and its well-developed welfare state, France has developed a comparatively strong form of engagement with its citizens abroad in the area of welfare.

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<sup>1</sup> Sections of this chapter that concern the political participation and representation of French citizens abroad have been published in a report authored by Jean-Thomas Arrighi in the framework of the FAIREU H2020 Research project (Arrighi J.-T. (2018) "Report on political participation of mobile EU citizens: FRANCE" Accessible at [https://faireu.ecas.org/wp-content/uploads/2019/02/FAIREU\\_France.pdf](https://faireu.ecas.org/wp-content/uploads/2019/02/FAIREU_France.pdf)).

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## 11.2 Diaspora Characteristics and Home Country Engagement

### 11.2.1 *The French Diaspora and Its Relations with the Homeland*

Historically, France has been rather a country to which one comes than one from which one leaves. This is reflected in migration statistics, with inflows significantly exceeding outflows (Brutel 2015). Yet, emigration has increased over the past 20 years. The number of French passport holders around the world is hard to assess, especially since the French nationality law allows for dual citizenship and does not place restriction upon the transmission of citizenship through *jus sanguini* of citizens born abroad of at least one French parent. According to recent estimates, the number of French citizens abroad should range between two to three million (Brutel 2015).

The Ministry of Interior collects and provides up-to-date information on the number of French citizens abroad who are duly registered in consular population registries. In 2017, there were 1.8 million French citizens who were registered in French consulates abroad, 37% of whom resided in another Member State of the European Union (EU). The five main countries of destination of French expatriates all share geographical borders with France: the United Kingdom (UK- 147,000), Belgium (128,000), Germany (117,000), Spain (85,000), and Italy (78,000).<sup>2</sup> The overall proportion of men and women in the population of French citizens abroad was roughly equal in 2017, in spite of significant variations across regions. Women represented 42.5% of the registered population in Asia-Oceania, against 53.4% in the EU. As for the age distribution, 34% were less than 25 years old, 51% between 25 and 60, and 15% over 60 years old.<sup>3</sup> While there is little information on the socio-economic characteristics of this population, a 2014 study carried out by the Chamber of Commerce of the Paris region noted that French citizens abroad generally have a significantly higher level of education than the domestic population, with 12% of them holding a doctorate degree and an additional 37%, a higher education degree. Among other findings, the survey also showed that 57% of the respondents declared earning more than EUR 30,000 per year (Biacabe and Robert 2014: 13).

By European standards, emigration from France is a relatively recent phenomenon, as comparatively few people left the country in the nineteenth century. This led some historians to argue that the limited size of the French diaspora in the United States (US) in the first half of the twentieth century seriously harmed France's

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<sup>2</sup>In the introductory chapter of this volume, the analysis of the French case is based on OECD data, which includes the US instead of Germany among the top five destination countries of the French diaspora.

<sup>3</sup>Ministère de l'Europe et des Affaires Étrangères (2019). *Rapport sur la situation des Français établis hors de France*. [http://www.assemblee-afe.fr/IMG/pdf/rapport\\_2019\\_-\\_version\\_finale\\_.pdf](http://www.assemblee-afe.fr/IMG/pdf/rapport_2019_-_version_finale_.pdf). Accessed 05 May 2020.

geostrategic interests, especially when compared to Germany (Haglund 2012). To this day, the lack of cohesion and political mobilisation among French nationals abroad has remained a pervasive fact and contrasts sharply – as we show below – with the sustained efforts and considerable resources that have been invested by French authorities to reach out to them during the past two decades. Hence, while it can be argued that, in a sociological sense, there is no such thing as a French diaspora, France has deployed a variety of diaspora-building policies. Hence, in accordance with Roger Brubaker's well-known distinction, the French diaspora should rather be understood as a top-down category of political practice than a bottom up category of analysis (Brubaker 2005).

### 11.2.2 *Diaspora Infrastructure*

As mentioned in the introduction to this volume (Lafleur and Vintila [this volume](#)), France's diaspora infrastructure is comparatively more extensive when compared to other EU Member States. In recent years, France has engaged in a far-reaching diaspora-building project through a variety of institutions: ministries, the diplomatic network, consultative and representative bodies, and parliamentary representation. French political parties have also significantly increased their presence abroad in recent years.

As far as the executive branch of Government is concerned, the responsibility for French citizens abroad falls under the remit of the French Ministry for Europe and Foreign Affairs (*Ministère français pour l'Europe et les affaires étrangères*). Until recently, there was a sub-ministry for French Abroad (*Secrétaire d'état pour les Français de l'étranger*), located within the Ministry for Foreign Affairs. It was not renewed under the presidency of Emmanuel Macron after he took office in May 2017. In their countries of residence, French expatriates can count on France's vast diplomatic network – the third largest in the world, after the US and China –, which includes 213 consulates and over 500 diplomatic missions. There are about 30 countries where France has no official diplomatic representation. For most of these countries, there are ad-hoc arrangements to ensure access to consular services. For instance, French citizens in Bhutan depend upon the French consular representation in India. The status of French honorary consuls is regulated under Decree 76–548 of 1976. In terms of services to French abroad, the main difference with ordinary consuls is that they cannot deliver visas to foreigners wishing to travel to France. Honorary consuls are not paid and do not have to hold French nationality. They are appointed by the French Minister of Foreign affairs and their core mission is to ensure the protection of the interests of French citizens abroad.

Second, France has long established formal forums to reach out to its population abroad through consultative bodies that meet either in France or in the countries of residence. In 1948, an official decree created the High Council for French Abroad (*Conseil supérieur des Français de l'étranger*), which was replaced in 2004 by the Assembly for French Abroad (*Assemblée des Français de l'étranger*, AFE), which



issues non-binding opinions to French authorities on issues of relevance to French citizens abroad.

The Consular Council (*Conseil consulaire*) is the institution responsible for defending the interests of French expatriates in their countries of residence. It is a consultative body dedicated to consular affairs. Since 2013, its members are elected every 6 years by citizens abroad officially registered in each of the 130 consular constituencies. Nine councillors sit in each Consular Council. As shown in this volume, among EU Member States, only Italy has a similar form of representation at the consular level. Their task consists in assisting the administration by issuing an opinion on all matters of interest to French citizens residing within the constituency, and they play a prominent role in the delivery of social entitlements to citizens abroad (see below).

Third, as part of its policy of enfranchising citizens abroad, France has opted for a discrete representation through reserved seats in the Lower and Upper Chambers of the national Parliament. For the election of the Upper Chamber (*Assemblée Nationale*), there are 11 geographically-defined extra-territorial constituencies, based upon the demographic distribution of French citizens abroad (since 2011). In the Lower Chamber (*Sénat*), there are 12 reserved seats for representatives of citizens abroad, but these are non-geographically defined as those representatives are indirectly elected by consular councillors. This presence in the two Chambers guarantees the representation of emigrants' interests in the French Parliament.

Fourth, and mainly as a result of successive reforms strengthening the political participation and representation of expatriates during the past decade, French political parties have also developed their presence abroad. With the introduction of extra-territorial constituencies, all mainstream parties have created 'federations', 'committees' or 'sections' abroad.<sup>4</sup> Most of those extra-territorial sections are often empty shells that are reactivated and play a role in the campaign prior to national or European elections. However, party sections abroad provide candidates with the opportunity to gain international visibility and polish their international stature. More importantly, the creation of an extra-territorial constituency with reserved seats has created an emerging class of 'extra-territorial' political entrepreneurs, who specifically target voters residing in specific countries for elections (see also Pellen 2013; Kernalegenn and Pellen 2020).

A number of French cultural institutions are also present abroad. Their mission is presented in the next section as they are closely tied to cultural policies, one of France's core area of engagement abroad. In 2018, France introduced the so-called

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<sup>4</sup>The list of extra-territorial federations for mainstream parties can be consulted online, as follows: *Les Républicains* (LR, mainstream right, <https://www.republicains.fr/federation>); *Le Parti Socialiste* (PS, mainstream left, <http://ffe-ps.org/>); *La république en Marche* (LREM, centre, <https://en-marche.fr/le-mouvement/la-carte>). In the latest round of elections (June 2017), the results were as follows: 10 seats out of 11 for LREM or parties belonging to the presidential coalition, such as the centre party MODEM; one seat for a centre-left candidate, who was not running under the PS banner. See: <https://www.diplomatie.gouv.fr/fr/services-aux-citoyens/droit-de-voter-et-elections-a-l-etranger/resultats-des-elections/article/elections-legislatives-resultats-pour-les-francais-de-l-etranger>. All links were accessed on 18 August 2018.

Support Fund to the Network of French Associations Abroad (STAFE, *Dispositif de soutien au tissu associatif des Français à l'étranger*). In its first year, it was endowed with EUR 2 million, which were distributed to relatively small associations in a range of countries. While such policy is relatively rare, it can also be found in other countries covered in this volume, such as Ireland and Poland (see, for instance, Hickman [this volume](#)).

### 11.2.3 Key Engagement Policies

France has a very elaborated and diversified set of diaspora policies, though the political aspect stands out. By international standards, France has one of the most generous extra-territorial franchise for citizens residing abroad (Arrighi 2014, 2018). They may participate in presidential elections, European elections and national referendums. Since 2012, they may even directly elect their own representatives to the National Assembly, where 11 seats out of 577 are reserved to the representation of 'French citizens residing outside of France'. In addition, their interests are indirectly represented through 12 reserved seats in the Senate. In some aspects, electoral registration is easier for French expatriates than for residents. Indeed, consular electoral registries are automatically generated from the population registries administered by consulates. Furthermore, French expatriates can cast a ballot from abroad either directly in the consular or diplomatic premises of their constituency of residence or by appointing a proxy. In parliamentary elections, they may even cast an electronic vote.<sup>5</sup>

When it comes to basic consular services, France's policies are not significantly different from those observed in other EU Member States discussed in this volume. French citizens abroad may renew their national identity card (*carte nationale d'identité*) or passport in consulates abroad. The procedure is quite straightforward, especially given the gradual digitalisation of administrative procedures. Applicants must submit an existing ID document (even if expired), justification of residence abroad and, in the event that the existing document is not 'secured' (e.g. biometric passport), a birth certificate. The birth certificate usually can be downloaded online by the consular administration. The renewal of an ID is free of charge, but the passport renewal has an administrative cost of EUR 92 (less for a minor).

France also offers repatriation and assistance to French citizens abroad in the event of death, illness, or hardship. Under "extraordinary circumstances", the state can organise the repatriation and pay related expenses, although the beneficiary's

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<sup>5</sup>For a comprehensive overview of non-resident citizens' electoral rights in France, see Arrighi (2014). Electronic voting was first experimented in the 2012 parliamentary elections. It was cancelled shortly before the 2017 elections. Due to fears of "cyber-attacks", dixit the Ministry of Interior. See: [https://www.lemonde.fr/pixels/article/2017/03/06/legislatives-le-gouvernement-ne-recourra-pas-au-vote-electronique-pour-les-francais-de-l-etranger-pour-des-raisons-de-securite\\_5090026\\_4408996.html](https://www.lemonde.fr/pixels/article/2017/03/06/legislatives-le-gouvernement-ne-recourra-pas-au-vote-electronique-pour-les-francais-de-l-etranger-pour-des-raisons-de-securite_5090026_4408996.html). Accessed 18 August 2018.

family is expected to fully reimburse those expenses. Those circumstances may include cases of French citizens abroad facing economic hardship, though the lack of clear criteria in the legislation leaves the relevant consular authorities with significant discretionary power in assessing individual cases. Once they are declared eligible for repatriation, individuals are then directed by authorities towards associations in France, which may cater for their particular needs. Upon their return to France and provided they meet the general eligibility requirements, they may be entitled to a provisional shelter, medical assistance, or the State Medical Aid (*Aide Médicale de l'État*), a universal health coverage for persons who are not affiliated to the general regime. According to a 2017 report commissioned by the Prime Minister (*Rapport du Gouvernement sur la situation des Français établis hors de France*), the Ministry spent almost 500,000 euros in 2016 in organizing 237 repatriations, without requesting any reimbursement. Similarly, in the early days of the COVID-19 crisis in March 2020, the Ministry of Foreign Affairs set up a specific repatriation plan in cooperation with airlines to facilitate the return of tens of thousands of French citizens stuck abroad (mostly tourists and travelers).

In the same report, French authorities claim that no other country in Europe had such advanced and comprehensive system of social protection for citizens abroad. For instance, unlike most other EU Member States who do not have guaranteed minimum resources schemes for citizens abroad, France allows for individual applications for direct cash payments to welfare committees set up at the consular level (*conseil consulaire pour la protection et l'action sociale*, CCPAS).

France is also very active on the cultural front, though its extra-territorial cultural policies mainly target non-resident foreigners as part of its diplomatic policy. These extra-territorial cultural policies however indirectly benefit French citizens abroad. Three main cultural institutions are in charge of these policies. First, the French Institutes (*Institut Français*), which were set up in their current form in 2010, but build on a historic network of institutes of French culture that started at the beginning of the twentieth century. The 2010 reform aimed to create an institution more similar to the German Goethe Institute or the British Institute, perceived as more effective at the time. The French Institute is co-administered by the Ministry of Foreign Affairs and the Ministry of Culture. Its core mission is to promote French culture abroad. In the law, no mention is made of French citizens abroad and French institutes clearly do not specifically target them. However, French institutes are often vibrant cultural centres and the natural hub of French communities abroad. Second, the French Alliance (*Alliance Française*) was created in 1883 with the purpose of promoting the French language and culture abroad. The organisation does not specifically target French citizens abroad either. In fact, it primarily targets “foreigners” in their home country, although its numerous services are also used by French citizens and its centres abroad often are the epicentre of French diasporic communities. They allow French citizens abroad to maintain a close link with French culture and ensure its reproduction across generation (together with the French Institute, especially since both institutions often share the same premises). According to its website, the *Alliance Française* has 1,036 offices dispersed in 130

countries. The third cultural arm of France abroad is the Agency for the Teaching of the French Language Abroad (*Agence pour l'enseignement français à l'étranger*, AEFÉ). It is responsible for managing the extra-territorial network of French schools that are affiliated to the French Ministry of Education. According to a 2016 Government report, the AEFÉ included 495 schools and 342,000 pupils in 2015, 125,000 of which being French citizens.

Overall, when it comes to cultural policies abroad, language is a core dimension, as these three institutions ensure the diffusion of the French language through language courses organised by the *Alliance Française* and the pursuit of compulsory education in one of the 495 French schools administered by the AEFÉ. In the centres of *Alliance Française*, French citizens or their children do not enjoy any preferential treatment and must comply with the same conditions as foreigners who wish to learn French or take an examination to prove their linguistic ability for professional or educational purposes.

Next to cultural and educational policies, it is to be noted that, unlike other large emigration states, France does not have economic policies targeting citizens abroad beyond the signature of 115 bilateral treaties to avoid double taxation. However, the decision of the current Government to abrogate the Solidarity Tax on Wealth in 2017 (*impôt de solidarité sur la fortune*) was framed as a necessary measure for stopping the flight of wealthy tax payers and encouraging wealthy expatriates to return. While it is unclear whether or not this reform is primarily targeting the French abroad, discussions around it revealed the authorities' preoccupation for a certain type of financial elites among the French population abroad.

### **11.3 Diaspora Policies and Social Protection in France**

In this section, we look in more details into French policies towards citizens abroad with a focus on social protection and show that, compared to other EU Member States, France has a more proactive approach in this area.

#### ***11.3.1 Unemployment***

With regards to unemployment benefits, French citizens residing outside the EU are not entitled to unemployment benefits in France upon their return if they were not affiliated to the (public) insurance scheme (*caisse d'assurance chômage*) during their residence abroad.

They may, however, remain affiliated while abroad in two different ways. First, if their employer abroad chooses to affiliate them to the scheme by paying a monthly social security contribution. This is frequent for persons employed by state agencies or large companies and posted abroad under an "expatriate status". Second, French citizens abroad may individually choose to remain affiliated with the French

unemployment scheme by paying a monthly contribution. They must do so prior to their expatriation or within 12 months after they left the country. They are then entitled to French unemployment benefits in case of job loss abroad, provided they return to the country within 12 months.<sup>6</sup>

Among their prerogatives, Consular Councils may intervene on unemployment-related issues in their constituency. For instance, expatriates may, in principle, receive support for professional training (under exceptional circumstances taking into account their personal situation and the economic context in their country of residence). In practice, very few have been eligible for such scheme. In 2015, for instance, merely EUR 35,000 were spent in three African countries (Madagascar, Mali, and Senegal).<sup>7</sup>

### 11.3.2 Health Care

A critical actor in France's health policies towards citizens abroad is the Fund for French Abroad (*Caisse des Français de l'étranger*, CFE) that was created in 1978. Though formally autonomous from the French general health agency (Social Security), the CFE is oversighted by the Ministries of Social Security and Budget and regulated by the French social security code. Beyond health provisions guaranteed by EU social security cooperation, the CFE allows French citizens residing outside the EU to subscribe to three insurance schemes, covering health and maternity, invalidity, and work-related accidents, respectively.

Regarding the health and maternity insurance (*Assurance maladie-maternité*), citizens abroad may remain affiliated to the French social security through its dedicated agency specifically catering for the needs of expatriates. The CFE offers a variety of schemes covering specific risks and ensuring coverage both in the country of residence as well as during visits/stays in France, under similar conditions as those provided by social security for residents (e.g. specific reimbursement rates, list of medicines covered by insurance, etc.). The monthly payment for the coverage varies according to several criteria – chiefly income and age, with preferential fees for the youth, the elderly, and families – thus mirroring the means-tested social policy scheme in the homeland. Once the person is affiliated, the CFE covers health-related expenses in the country of residence, with country-specific limitations and thresholds.

Second, the invalidity insurance scheme is subject to specific criteria: be less than 60 years old at the time of the contract; be formally declared as invalid (at least 2/3rd invalidity) and be able to justify a loss of income resulting from the person's invalidity. Eligible individuals who subscribed to the insurance are entitled to

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<sup>6</sup>For more information, see the website of the French job centre (*Pôle emploi*): <https://www.pole-emploi.fr/candidat/salarie-expatrie-hors-europe-@/article.jspz?id=60557>. Accessed 18 August 2018.

<sup>7</sup>See *Ministère de l'Europe et des Affaires Étrangères* (2019), Footnote 3.

benefits both in the country of residence and during their short stay in France. The exact amount and benefits are subject to country-specific limitations and thresholds.

Third, the CFE also provides insurance schemes covering work-related accidents, but citizens are also encouraged to contract a complementary (private) insurance to cover residual/extra health-related costs. The CFE has a formal partnership with private insurers either exclusively specialised in expatriates or with a dedicated branch for citizens abroad.<sup>8</sup>

### 11.3.3 Pensions

Beyond the EU framework, recipients of French pensions are able to receive it while residing abroad by submitting once a year a life certificate (*certificat d'existence*) to pension authorities in France. The certificate must be signed by the consulate, embassy, or diplomatic office in the country of residence. Since 1 January 2018, the procedure may be done electronically.

French workers residing outside the EU are also able to remain affiliated to the general pension scheme. The old-age insurance (*Assurance Vieillesse*) for citizens abroad is administered by the CFE, which acts as an intermediary by managing the payments made by citizens abroad and transferring them to the insurance scheme for residents (*Caisse Nationale d'Assurance Vieillesse*), which is itself a branch of the French social security.

Lastly, citizens residing abroad have also access to a series of means-tested cash benefits. In particular, the “solidarity benefits for the elderly” (*Allocation de solidarité en faveur des personnes âgées*, AS) is a benefit paid on a monthly basis to persons above 65 years old who meet certain economic conditions. This policy primarily targets resident citizens and foreigners who have worked and are retired in France. However, French citizens abroad are also eligible under specific conditions. For non-residents, individual applications are assessed by the Consular Council for social protection and aid located in the beneficiary’s country of residence (see details above regarding the *Conseil consulaire pour la protection et l'action sociale*, CCPAS).

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<sup>8</sup> More information at: <https://www.cfe.fr/web/guest/adhesion-accident-travail-salarie>. Accessed 18 August 2018.

### 11.3.4 *Family-Related Benefits*

Beyond what is provided by EU regulations, no specific policy exists on the exportability of child benefits and family-related benefits do not formally fall under the competence of Consular Councils.<sup>9</sup> Nonetheless, two related policies are worth being mentioned here. First, in the area of maternity benefits, French women giving birth abroad who subscribed to the health-maternity insurance scheme of the Fund for French Abroad (*Assurance santé-maternité de la caisse des Français de l'étranger*) are entitled to a *per diem* for maternity leave benefits, as well as coverage of a series of birth-related expenses.<sup>10</sup> Second, in the area of education, there is a means-tested scholarship scheme for children in age of schooling called “Means-Tested Schooling Aid” (*Aide à la scolarité sous conditions de ressources*). This scheme is related to recent transformations in French policies in the area of education for French abroad. Until 2012, the tuition fees for attending a French school homologated by the French Department of Education – which vary greatly across countries, e.g. from circa 300 euros in Madagascar up to circa 20,000 euros in New York city –, were partly waived for the children of French citizens. This measure, introduced under the presidency of Nicolas Sarkozy, was abrogated in 2012, with the election of François Hollande. In 2018, children of French citizens may still be entitled to a financial assistance in the form of a partial tuition waiver based on socio-economic considerations. In order to be eligible for a scholarship, applicants must be registered in the consular registry of the country of schooling and meet certain income requirements (which vary across countries).<sup>11</sup>

### 11.3.5 *Economic Hardship*

Similarly to other EU Member States, the French minimum income scheme (*Revenu de Solidarité Active*, RSA) is in principle reserved to residents, although beneficiaries may keep receiving the RSA should their stay abroad not exceed 3 months.<sup>12</sup> Yet, when it comes to cash benefits for citizens abroad in situation of hardship, French policies are significantly different from what can be observed in the other case studies discussed in this volume as they go beyond schemes designed for citizens temporarily abroad who face exceptional circumstances.

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<sup>9</sup> See art. 3, *LOI n° 2013-659 du 22 juillet 2013 relative à la représentation des Français établis hors de France*.

<sup>10</sup> More information on maternity benefits under the CFE insurance scheme can be found at <http://www.consulaires.com/maternite-a-letranger/>. Different limitations and thresholds apply across host countries.

<sup>11</sup> In application of articles D531-45 to D531-51 of the Education Code (*code de l'éducation*).

<sup>12</sup> More information on eligibility conditions can be found on the Government's website: <https://www.service-public.fr/particuliers/vosdroits/F33739>. Accessed 18 August 2018.

Available cash payments cover a variety of circumstances and potential beneficiaries must apply to the Consular Council for social protection and aid (*Conseil consulaire pour la protection et l'action sociale*”, CCPAS) in the consulate of their consular constituency of residence. In each consulate, a civil servant usually occupies the post of delegate to social protection (*délégué à la protection sociale*). The CCPAS is composed of one or several consular civil servants, consular councillors (elected every 6 years), and representatives of civil society associations and stakeholders. It meets several times a year (the exact number of yearly sessions varies across consulates) and is in charge of determining individual applicants' eligibility to a specific scheme, as well as the amount and length of the benefit, if applicable. In addition to Consular Councils abroad, there is also a Permanent Commission for the social protection of French citizens abroad in the Senate (*Commission permanente pour la protection sociale des Français de l'étranger*), created in 1992. Its role is essentially legislative: it does not assess individual cases, but it rather sets the general norms, together with the National Assembly.

There are four types of cash benefits available to citizens abroad in situation of economic hardship. First, there is the fixed-term social allowance (*Allocation à durée déterminée, ADD*) which is a time-limited financial assistance to French persons abroad who meet certain income requirements and find themselves “in distress”. Second, there is the child-specific scheme called *Secours mensuels spécifiques enfants* (SMSE) which also provides one-time extraordinary payment to children “in distress”. Third, there is a discretionary scheme called Occasional aids (*Secours occasionnels*) that covers expenses to French citizens facing exceptional circumstances abroad. Fourth, there is a scheme for non-registered citizens abroad and prisoners called “exceptional aids” (*Aides exceptionnelles*) which is also a one-off payment made in exceptional circumstances.

In addition to those policies directly managed by consulates, France also supports associations that provide assistance to French citizens abroad. Such scheme is similar to the practice of other states such as Ireland that privilege delegating assistance missions to associations (see Hickman in [this volume](#)). Indeed, France provides funding to the so-called “Local Associations of assistance and solidarity” (*Organismes locaux d'entraide et de solidarité*). These non-profit charities are located and operate exclusively abroad. Their purpose is to provide assistance to French citizens facing particular hardship, and whose situation does not fall under the remit of the CCPAS. Additionally, they can also provide benefits in-kind to persons receiving cash benefits from French authorities.

Finally, France also subsidises a homeland association that provides assistance to returnees, called France-Horizon. This association, originally created in 1940 to assist displaced French citizens during the war, now provides social assistance to a variety of vulnerable populations, including migrants, asylum seekers, and returnees facing exceptional circumstances.<sup>13</sup>

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<sup>13</sup><https://www.france-horizon.fr>. Accessed 18 August 2018.



## 11.4 Conclusions

In this chapter, we have shown that France is not only a country of immigration, but also one of emigration. French authorities have developed a wide range of policies that target a growing population of expatriates. In the area of electoral rights, culture, and social protection, the analysis of the French case showed a relatively stronger level of engagement compared to the other cases studied in this volume (Lafleur and Vintila [this volume](#)).

As far as social rights are concerned, a recent report of the Ministry of Europe and Foreign Affairs claims that France has the most advanced framework of social protection for its citizens abroad in Europe,<sup>14</sup> an assertion which is corroborated by the comparative findings in the present volume (Lafleur and Vintila [this volume](#)). In one of the few comparative overviews of diaspora policies in Europe, Weinar found that France's extensive diaspora policy "reflects, on one hand, the French state model in which the state is trusted and expected to support citizens in all instances, and on the other, the French view that the transnational mobility of its citizens is an opportunity to be used for the benefit of the state" (Weinar 2017: 2234–2235). In the past 30 years, the French welfare state has become increasingly de-territorialised due to the twin pressure of the EU integration process and domestic reforms in a context of welfare retrenchment. As a result, while residence has remained a central criteria for welfare eligibility, it has been loosened, both with regards to non-citizen residents and non-resident citizens (Isidro and Math 2020). The process has been uneven across policy areas, as this chapter has shown.

To understand France's diaspora engagement policy, one must look at both institutional and ideational aspects. First, France has a highly egalitarian conception of citizenship, which is a constitutive element of the Republican pact, and has become increasingly disconnected from residence in the country. It is particularly true with regards to political rights, as the French national franchise does not dilute the voice of expatriates through malapportionment, but ensures equal representation in the Parliament, compared to domestic constituencies (Arrighi 2014, 2018). It is also embodied in a highly redistributive welfare state, which has been gradually expanded to citizens abroad. Second, France's imperial past and the circumstances of decolonization need to be taken into account when looking at its engagement with citizens abroad. In material terms, France's vast diplomatic network is the direct institutional legacy of its past as a prominent European and colonial power. A variety of policies directed to the diaspora today can be traced back in one way or another to colonial arrangements. Again, this is particularly significant in the electoral realm. Unlike the UK, France granted political representation to most of its colonial territories in the Parliament and, after independence, those individuals who retained their French citizenship were granted direct and discrete representation in the Parliament. Third, in ideational terms, France's diaspora is essentially driven by its desire to project its power and prestige abroad,

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<sup>14</sup> See *Ministère de l'Europe et des Affaires Étrangères* (2019), Footnote 3.

in an effort to convey the image of a super-power, both internally, to the French population, and externally, to the rest of the world. Needless to say, the myth of France's omnipotence has become increasingly hard to sustain. The discrepancy between an idea of France which, as de Gaulle, famously said, "cannot be France without 'grandeur'", and the reality of a medium-sized power, is also reflected in a diaspora policy characterized by ambitious policy aims, and relatively modest policy outcomes.

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# Chapter 12

## Diaspora Policies, Consular Services and Social Protection for German Citizens Abroad



Amanda Klekowski von Koppenfels

### 12.1 Introduction

This chapter presents the interactions of the German Government with its nationals abroad, focusing on the policies adopted for this specific population, and presenting the institutions and legal bases that are in place, with a focus on social protection. Overall, the picture which emerges, and which is presented in this chapter, is that of a country which has neither an explicit emphasis on its emigrants nor many policies intended specifically for them. For the most part, rights in Germany are residence-based, and access to rights is thus associated with (legal) residence in the country, rather than with holding German citizenship. There are two clear exceptions: one is a robust system which enables voting from abroad for German citizens, and the other is facilitated access from abroad to pensions for years worked in Germany.

Policies vis-à-vis nationals residing abroad, as limited as they are, are otherwise folded into the relevant ministries, with discretion exercised by consular officials playing an important role in accessing those benefits. There are provisions to allow German nationals living abroad to be included in various policies (such as access to unemployment insurance or health insurance) under certain conditions, but these are rarely stated explicitly and function more often on the basis of exception rather than rule or law.

This lack of targeted policies for non-resident nationals contrasts with specific policies and structures for German minorities in Central and Eastern Europe (CEE), the former Soviet Union and southern Denmark. In what has been called an “historical legacy” (Cordell and Wolff 2007), including post-war reconciliation, clear policies have been developed for these populations. These policies largely facilitate German minorities’ continued or emerging engagement with German language and

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culture. They are restricted to German minorities which have been created by border movements (such as those in southern Denmark), or directly affected by Nazi occupation and World War II (such as those in Central and Eastern Europe and the countries of the former Soviet Union). That is to say, these are not policies which extend to ethno-national German minorities elsewhere in the world.

The German policy vis-à-vis Germans – defined broadly – outside of Germany in the post-World War II era is thus characterized by a contrast between a benign neglect of German nationals abroad and a concerted cultural outreach to ethno-national German minorities in Central and Eastern Europe. This contrast can largely be explained by historical legacies of Germany as an emigration country, which extended well into the 1950s, coupled with a post-war *Vergangenheitsbewältigung* (coming to terms with the past), or post-war reconciliation, perspective.

## 12.2 Diaspora Characteristics and Home Country Engagement

### 12.2.1 *The German Diaspora and Its Relations with the Homeland*

Germany was long known as an “undeclared” (Thränhardt 1995) or “reluctant” (Martin 1994) country of immigration, with so-called guestworker (*Gastarbeiter*) migration from the 1950s and 1960s initially envisaged as temporary, and only belatedly understood – in 2000 – as a permanent immigration flow (e.g. Brodmerkel 2017; Schmidtke 2017). In addition to substantial migration of ethnic Germans from Central and Eastern Europe and the former Soviet Union (*Aussiedler*), with a peak of 400,000 in 1990 (Klekowski von Koppenfels 2009), this temporary-turned-permanent migration flow has contributed to the solid recognition of Germany as an immigration country (Klekowski von Koppenfels and Höhne 2017).

There was high emigration from Germany, both before its unification in 1871, and after. Prior to German unification, Empress Catherine II of Russia, herself born in Prussia, called on German settlers in 1763 to work un-farmed land in Russia. Some 30,000 Germans responded within the next 30 years, forming the basis for the ethno-national German minority living in Russia (Klekowski von Koppenfels 2002). Germany’s shifting borders over the centuries also resulted in German migration across what are now CEE countries. Their descendants constitute the ethno-national German minorities still living in these countries.

Germany’s late unification as a modern nation-state in 1871, which brought together 26 states in a federation, coincided with high migration not only among those states, but also with high emigration to the United States (US), with more than 1 million emigrants to the US during the 1880s alone, and 5.5 million between 1816 and 1914 (Bade 1995: 511). High emigration continued into the post-war era, with

net migration consistently negative until 1956, when guestworker recruitment exceeded emigration. Net migration was negative most recently in 2008 and 2009.<sup>1</sup>

From 1967 to 2013, there has been an overall net emigration of some 1.4 million German citizens<sup>2</sup>; it is not known, however, how many of those have since returned to Germany. Germany continues to have a substantial number of emigrants, whether temporary or permanent, with 250,000 leaving in 2017 alone,<sup>3</sup> but, like many other countries in the Global North, Germany has not established strong institutional links with those emigrants. Data on those leaving the country is based on those who have de-registered from a German residence. The German Government does not have any formal estimate of the number of German citizens living abroad (Drs. 18/13579). They note that there are two factors which prevent one single accurate figure from being achieved, first, that German citizenship can be acquired abroad through birth to a German citizen, and, second, that temporary emigrants cannot be distinguished in emigration (=de-registration) data from permanent emigrants.

The Organisation for Economic Cooperation and Development (OECD) estimated 3.7 million German citizens living in other OECD countries as of 2010/11; this was the third-largest national group of emigrants in the OECD region, behind Mexico and the UK. Within the OECD group, the largest numbers of German citizens were in the United States (1.1 million), followed by the United Kingdom (275,000), Switzerland (274,000), France (207,000), Italy (192,000), Spain (186,000), Canada (165,000), Austria (153,000), Turkey (136,000) and the Russian Federation (135,000) (OECD 2015, 127).<sup>4</sup> In 2013, the UN estimated just under 2 million German citizens living abroad, with the US, Turkey, Switzerland, the UK and Spain as the top five destinations.<sup>5</sup> These discrepancies are not unique; reliable data on emigration are notoriously difficult to find (Klekowski von Koppenfels and Costanzo 2013).

Contemporary emigrants are, according to an SVR study<sup>6</sup> which sampled among Germans who had de-registered and left Germany during 2013, considerably younger than non-emigrants (on average, emigrants are 37 years old compared to the average of 50 for the non-migrants). They are also more highly educated, with

<sup>1</sup> [https://www.destatis.de/EN/FactsFigures/SocietyState/Population/Migration/Tables/\\_/rbev07.html;jsessionid=D91ACD3B76E67029C59A109D20918B39.InternetLive1](https://www.destatis.de/EN/FactsFigures/SocietyState/Population/Migration/Tables/_/rbev07.html;jsessionid=D91ACD3B76E67029C59A109D20918B39.InternetLive1). Last accessed 30 April 2020.

<sup>2</sup> SVR (2015). *Internationally mobile: motivations, determining factors and impacts of the emigration and return migration of German Citizens*. <https://www.svr-migration.de/en/publications/internationally-mobile-motivations-determining-factors-and-impacts-of-the-emigration-and-return-migration-of-german-citizens/>. Last accessed 30 April 2020.

<sup>3</sup> <https://www.destatis.de/EN/FactsFigures/SocietyState/Population/Migration/Tables/MigrationGerman.html;jsessionid=D91ACD3B76E67029C59A109D20918B39.InternetLive>. Last accessed 30 April 2020.

<sup>4</sup> OECD (2015), *Connecting with Emigrants: A Global Profile of Diasporas 2015*, <https://www.oecd.org/publications/connecting-with-emigrants-9789264239845-en.htm>. Last accessed 30 April 2020.

<sup>5</sup> <https://esa.un.org/migmgprofiles/indicators/files/Germany.pdf>. Last accessed 30 April 2020.

<sup>6</sup> See footnote 2 SVR (2015).

70% of emigrants having tertiary education, compared to 64% of non-migrants. Over half (57%) were highly skilled professionals, compared to 20% of the non-mobile citizens. This is a single study, and perhaps not generalizable, but does give valuable insights into this population.

### 12.2.2 *Diaspora Infrastructure*

The Emigrant Protection Act (*Auswandererschutzgesetz*), passed into law in 1975, amended the previous Imperial Act on Emigration (*Reichsgesetz über das Auswanderungswesen*) of 1897, which protected emigrants from unscrupulous agents claiming to facilitate emigration. The 1897 Act also included limits on emigration, notably for those who had not yet completed military service, for whom an arrest warrant had been issued, or whose travel expenses had been paid for or advanced by a foreign Government.<sup>7</sup> The 1975 Emigrant Protection Act removed the limitations on emigration and, indeed, was based upon the premise of the right of citizens to emigrate freely, and sought to ensure that this right remained unrestricted, also ensuring that citizens are properly prepared for emigration, without being charged for that service.<sup>8</sup>

The Emigrant Protection Act, most recently amended in 2013, in which policies were made uniform across Germany, thus legislates and restricts who may advise German citizens on emigration. The Act firmly anchors the responsibility for the protection of emigrants with the federal Government, with the responsible authority the Federal Ministry for Family, Seniors, Women and Youth, which both coordinates advice through *Caritas (Raphaelswerk e.V.)* and *Diakonisches Werk*, as well as granting licenses to private providers. An evaluation of the Act was carried out in 2018 to establish whether it fulfills its goal of sufficiently informing today's potential migrants.<sup>9</sup>

The responsibility for collating and evaluating all information related to emigration, as well as about counseling offices, was delegated in 1958 to the Federal Agency for Emigrants and those Working Abroad (*Bundesstelle für Auswanderer und Auslandstätige*), unit ZMV II 6 in the BVA, Federal Office of Administration (*Bundesverwaltungsamt*), an agency of the Federal Ministry of Interior.<sup>10</sup>

This BVA unit does not process any claims of any sort, nor does it dispense advice. The unit's activities are limited to managing a web page which provides links to information concerning emigration from and return migration to Germany,

<sup>7</sup> <https://ia902706.us.archive.org/23/items/dasreichsgesetz00goetgoog/dasreichsgesetz00goetgoog.pdf>. Last accessed 29 May 2019.

<sup>8</sup> <http://dipbt.bundestag.de/doc/btp/07/07141.pdf>. Last accessed 30 April 2020.

<sup>9</sup> [https://www.uni-due.de/imperia/md/content/soziologie/sozialstrukturanalyse/vorl.\\_programm-auswanderung\\_und\\_rückwanderung-adhoc-dgs2018.pdf](https://www.uni-due.de/imperia/md/content/soziologie/sozialstrukturanalyse/vorl._programm-auswanderung_und_rückwanderung-adhoc-dgs2018.pdf). Last accessed 30 April 2020.

<sup>10</sup> <http://dipbt.bundestag.de/dip21/btd/13/035/1303530.pdf>; [http://dipbt.bundestag.de/doc/brd/2012/04\\_57-12.pdf](http://dipbt.bundestag.de/doc/brd/2012/04_57-12.pdf). Last accessed 29 May 2019.

including links to information organized by country of residence. This information includes legal protection, foreign law, marriage abroad, useful information and FAQs, as well as links to the two primary advisory organizations (*Raphaelswerk e.V.* and *Diakonisches Werk*), other non-governmental associations which can give advice (e.g. “*Deutsche im Ausland e.V.*”<sup>11</sup>), German ministries’ information pages (about international drivers’ licenses, education systems in specific countries, health care, welfare, unemployment benefits, etc.), chambers of commerce, etc. They do not provide information that is of their own production, and they explicitly note on their website that they do not give advice by telephone, in writing or in person. They are a clearinghouse of information, providing links to those who can give advice. They do note that they are able to provide immediate help to German nationals in emergency situations; they cite Chernobyl in 1986 and the Asian tsunami of 2004 as two cases where they did so.<sup>12</sup>

The BVA unit instead directs Germans considering emigration to the two welfare associations, *Caritas/Raphaelswerk e.V.* (associated with the Catholic Church) and *Diakonisches Werk* (associated with the Protestant Church). Located under the Federal Ministry for Family’s authority, these associations are also financially supported by the Ministry and are responsible for advice on emigration and return to Germany. Support of German nationals abroad by the federal Government is, for the most part, on the basis of exception only, and would be handled by the Ministry in whose remit the question falls, after treatment of the case by a consular official.

**Terminology** The BVA unit refers to German emigrants and those working abroad, but the unit responsible for overseeing elections (appointed by the Ministry of Interior) refers to German nationals abroad as *Auslandsdeutsche*, or Germans abroad, a phrase that has been used in the past to refer to German ethno-national minorities (who are generally not German citizens). In a clear sign of change in the past twenty years, the term *Auslandsdeutsche* was once used by the Government to refer to German ethno-national minorities living in Eastern and Central Europe and the former Soviet Union.<sup>13</sup> Government institutions now refer to these individuals as German minorities (*Deutsche Minderheiten*) rather than Germans living abroad, although some academics and think tanks do continue to use the term *Auslandsdeutsche*.<sup>14</sup> It is not an entirely uncontroversial term (Blackbourn 2015).

<sup>11</sup> <https://www.deutsche-im-ausland.org>. Last accessed 30 April 2020.

<sup>12</sup> [https://www.bva.bund.de/DE/Themen/BuergerVerbaende/weitere/weitere\\_node.html](https://www.bva.bund.de/DE/Themen/BuergerVerbaende/weitere/weitere_node.html). Last accessed 29 May 2019.

<sup>13</sup> <http://www.bpb.de/nachschlagen/lexika/handwoerterbuch-politisches-system/201982/auslandsdeutsche?p=all>. Last accessed 30 April 2020.

<sup>14</sup> <http://www.bpb.de/apuz/243866/deutsche-minderheiten-im-ausland?p=all>. Last accessed 30 April 2020.



The BVA – elsewhere – refers to Germans Abroad (*Deutsche im Ausland*),<sup>15</sup> as does the Ministry of Interior at various points<sup>16</sup> and the German *Bundestag*.<sup>17</sup> No explanation is given in any of these cases.

**German Minorities** While there is thus no targeted assistance or support intended specifically for German nationals living abroad (any assistance is on the basis of exception, not the rule), the German Government does, on the other hand, provide centralized funding and support to German minorities living in Central and Eastern Europe and southern Denmark (but not elsewhere in the world). These are not, typically, German citizens. This is a distinct policy area handled by the Representative for *Aussiedler* and National Minorities (*Beauftragter für Aussiedlerfragen und nationale Minderheiten*) within the Ministry of Interior (Beauftragter 2018). The representative is responsible for these German minorities, including the minorities who migrate to Germany. This policy continues a post-war policy of reconciliation.

Government policy vis-à-vis German minorities, particularly those in the former Soviet Union, is thus separate from that addressing German nationals living abroad. While some of the minorities may have had their German citizenship recognized, the majority are not German citizens. The German Government's policy is in place to address the impact of the results of World War II on those minorities. This policy includes support for the German language, maintenance and development of ethno-cultural identity, work with youth groups, partnerships, and strengthening self-organization of the minorities.<sup>18</sup> Faced with increasing immigration of these minorities in the 1990s, the German Government phrase which represented the shift from supporting their migration to supporting them in their countries of residence was "*Hilfe zur Selbsthilfe*" or help for self-help.<sup>19</sup> A high point of so-called *Aussiedler* (or out-settler) migration was reached in 1990, with nearly 400,000 migrants from CEE and the former Soviet Union to Germany, dropping to 1800 in 2012.<sup>20</sup>

**Registration** All individuals living in Germany – both German and foreign nationals – are required, within one or 2 weeks (variation across federal states) of moving in to a residence, to register with the local authorities, a common procedure across

<sup>15</sup> <https://www.bva.bund.de/DE/DasBVA/Rueckblick/rueckblick-node.html>. Last accessed 29 May 2019.

<sup>16</sup> <https://www.bmi.bund.de/DE/themen/moderne-verwaltung/verwaltungsrecht/personenstandsrecht/personenstandsrecht-node.html>. Last accessed 30 April 2020.

<sup>17</sup> <https://www.bundestag.de/blob/502398/9b86244c1c207ce4bbae402a5441f17e/wd-6-144-16-pdf-data.pdf>. Last accessed 30 April 2020.

<sup>18</sup> <https://www.bmi.bund.de/DE/themen/heimat-integration/minderheiten/minderheiten-in-europa/minderheiten-in-europa-node.html>. Last accessed 29 May 2019.

<sup>19</sup> <https://www.bundestag.de/blob/414952/a175b9dd999482c63b85bdd12ade0592/wd-2-100-06-pdf-data.pdf>. Last accessed 30 April 2020.

<sup>20</sup> <https://www.zeit.de/news/2018-01/14/migration-zahl-der-spaetaussiedler-steigt-weiter-14094202>. Last accessed 30 April 2020.

Europe. Local registration in Germany is a prerequisite for access to services such as the monthly child allowance, social support, welfare, unemployment benefits, training programs, etc. On the other hand, individuals who are permanently leaving one residence, and whose next residence is not in Germany, must de-register within 2 weeks of leaving that German residence (BMG, Federal Registration Act, *Bundsmeldeggesetz*). This de-registration is used to calculate the number of Germans who have emigrated, which does mean that those who are intending to leave Germany only temporarily are not captured in the data. De-registration entails losing the majority of the rights gained through registration.

It is clear that many Germans will have left Germany, but nonetheless remain registered. It is unknown how many people have not de-registered; the German Government notes that because of varying national abilities in host countries to check and sanction registration, there will always be some number who have not de-registered,<sup>21</sup> despite a potential 1000 EUR fine.<sup>22</sup>

Responding to concerns about domestic address fraud, the Registration Act (*Meldeggesetz*) was amended in 2015 to require a landlord's signature for both registration and de-registration. This means that a previous interim solution for remaining registered in Germany – giving a friend's address, for instance – becomes more complicated, as it now requires submitting paperwork claiming emigrant as tenant.

German citizens living abroad have the possibility of signing up, for the purposes of emergency notification, with the Electronic Recording of Germans Abroad (*Elektronische Erfassung von Deutschen im Ausland, Elefant*) managed by the Foreign Office. *Elefant* is designed for travellers and temporary migrants and does not require de-registration from a domestic German address. It also includes those Germans who are living abroad indefinitely or permanently, so that they can be contacted in case of national crisis. One question which is asked on the registration page is whether an individual is travelling for a brief period or is living abroad longer-term or indefinitely. In registering on *Elefant*, individuals are not asked whether they remain registered in Germany,<sup>23</sup> but they do agree to a standard data use statement. It is unclear whether, but unlikely that, *Elefant* would crosscheck to verify whether an individual is registered in Germany.

**Consular Network** The consular network providing support to German nationals abroad is well developed, with a worldwide total of over 220 representations (embassies and consulates), and over 330 honorary consuls. In the countries hosting the five largest populations of German nationals living abroad (United States, United Kingdom, Switzerland, France and Italy), there are a total of 19 embassies and consulates and 84 honorary consulates (9 and 36 in the United States; 2 and 17 in the UK; 1 and 4 in Switzerland; 5 and 18 in France, and 2 and 9 in Italy). The

<sup>21</sup><http://dip21.bundestag.de/dip21/btd/16/054/1605417.pdf>. Last accessed 30 April 2020.

<sup>22</sup><https://wirelesslife.de/wohnsitz-aus-deutschland-abmelden-pros-und-cons/>. Last accessed 30 April 2020.

<sup>23</sup><https://elefant.diplo.de/elefantextern/home/login!form.action>. Last accessed 30 April 2020.

Consular Act (*Gesetz über die Konsularbeamten, ihre Aufgaben und Befugnisse-Konsulargesetz*) of 11 September 1974 is the Act that governs the appointment and duties of consular and honorary consular officials. Honorary consular officials are charged with consular duties, including the issuing of passports and emergency assistance to citizens. The Federal Foreign Office (*Auswärtiges Amt*), through embassies and consulates, is the responsible Ministry.<sup>24</sup>

In the absence of German diplomatic representation, German citizens may also draw on any of the consular services of any other European Union (EU) country, following the Consular Protection Directive of 20 April 2015.<sup>25</sup>

**Political Parties** The four major political parties (Christian Democrats (CDU), Social Democrats (SPD), Free Democrats (FDP) and Alliance 90/Greens) have a limited number of branches located abroad, established by individual German citizens living abroad. The CDU has the “Circles of friends abroad” (*Freundeskreise im Ausland*)<sup>26</sup> in 21 countries, with the first one established in Brussels in 1996. The Social Democrats refer to “Friendship circles abroad” (*Auslandsfreundeskreise*), with their largest group, founded in the 1970s and counting with over 240 members, being in Brussels.<sup>27</sup> There are 14 further SPD circles, with another eight currently being established by German nationals living abroad. The FDP’s first “Group abroad” (*Auslandsgruppe*) was established in Brussels in 1969. There are six further FDP groups, all located in Europe.<sup>28</sup> The Greens have two “Local associations” (*Ortsverbände*) outside of Germany: one in Brussels<sup>29</sup> and another one established in 2008 at the Goethe Institut in Washington, DC.<sup>30</sup>

**Taxation** In principle, Germans living abroad are not taxed on their income earned abroad. Double taxation agreements have been concluded between Germany and 94 countries, including the five hosting the largest populations of German citizens, to avoid double taxation on any other income. The German Finance Ministry provides links to the text of the agreements, as well as information concerning taxation of foreign businesses or foreign income (albeit directed at German residents).<sup>31</sup>

<sup>24</sup> <https://www.auswaertiges-amt.de/blob/199314/c63baf4e51669ec9cf35d06fe3f9350b/dtauslandsvertretungenliste-data.pdf>. Last accessed 29 May 2019.

<sup>25</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015L0637>. Last accessed 30 April 2020.

<sup>26</sup> <https://www.cdu.de/auslandsdeutsche>. Last accessed 30 April 2020.

<sup>27</sup> [https://www.spd.de/partei/organisation/auslandsfreundes\\_kreise/](https://www.spd.de/partei/organisation/auslandsfreundes_kreise/). Last accessed 29 May 2019.

<sup>28</sup> <https://www.fdp-europa.eu>. Last accessed 30 April 2020.

<sup>29</sup> <https://gruene-bruessel.eu/ueber-uns/>. Last accessed 30 April 2020.

<sup>30</sup> <https://gruene-washington.de/neuigkeiten/>. Last accessed 30 April 2020.

<sup>31</sup> [https://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales\\_Steuern/Staatenbezogene\\_Informationen/doppelbesteuerungsabkommen.html](https://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Steuern/Internationales_Steuern/Staatenbezogene_Informationen/doppelbesteuerungsabkommen.html). Last accessed 29 May 2019.

### 12.2.3 *Key Engagement Policies*

There does not appear to be any concerted coordination between German ministries addressing German nationals living abroad. The Emigration Protection Act ensures that correct information is given to those who are considering a move abroad, which may well account for the inclusion of references to Germans living abroad in a number of Acts. There are distinct differences in policies and procedures for German citizens living abroad in the EU and in European Economic Area (EEA) countries than elsewhere. These are slight differences for voting, and more significant ones for consular protection and access to social protections.

**Voting** Voting from abroad is one policy area with significant positive developments in recent years, in line with other countries' expansion of the right to vote from abroad (Bauböck 2005). The right to vote was granted to German citizens living abroad (aged 18 and older) in 1985, with that right both expanded and facilitated since then (Pautsch and Müller-Török 2016).

Germans living abroad have the right to both the passive suffrage (the right to stand as candidate in elections) and active suffrage (the right to vote). Any German living abroad – whether temporarily (still registered at a domestic German address) or permanently (de-registered from a previous residence in Germany) – who is 18 or older may vote in the *Bundestag* (federal Parliament) elections. However, only those who are temporarily abroad may additionally vote in state and local elections; those who are permanently abroad may vote only in federal and European Parliament elections. However, any German living abroad, whether temporarily or permanently, may run for any level of office – European Parliament, federal, state or local.

To be eligible to vote in federal elections, Germans living abroad must not be excluded from voting by a judge (for instance, for having committed a severe crime), be at least 18 years old and either have lived in Germany for at least three uninterrupted months after the age of 14 within the last 25 years (last legislative change in 2009) or demonstrate that they are personally familiar with the political situation in Germany and are affected by it (legislative change in 2013, following a court case brought by two German citizens living in Belgium, who were excluded from voting).<sup>32</sup> Passively following the news is not enough; examples are presented by the federal election coordinator and might include an employee of the *Goethe Institut*, a journalist working for a German publication or broadcaster, or a young person who has never lived in Germany, but visits regularly, even if each visit is less than

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<sup>32</sup><https://www.dw.com/de/neues-wahlrecht-für-auslandsdeutsche/a-16797154>. Last accessed 30 April 2020.

three months.<sup>33</sup> Prior to the 2013 amendment, those who had never lived in Germany were excluded from voting<sup>34</sup> (Pautsch and Müller-Török 2016).

To vote, citizens must request inclusion on a local voter registration roll. The request form can be downloaded from the website of the Federal Returning Officer (*Bundeswahlleiter* - the federal voting bureau) or picked up from embassies or consulates.<sup>35</sup> It is available 9 months before the election. It must be received at least 21 days before the election by the last place of residence in Germany or, for those who have never resided in Germany, to the locality where the closest connection has been demonstrated or the last place of residence of parents. Upon receipt of the request, the ballot will be sent to the foreign address given. The ballot must be received by the local voting office by 6 p.m. on election day. If the foreign postal service is unreliable, request and ballot may be sent and received via consulate or embassy. The federal returning officer holds a list of those locations deemed to have unreliable post, and where such service is available. In principle, however, voting nonetheless remains postal only.<sup>36</sup>

European Parliament elections have slightly different procedures. To vote in these elections, non-resident German citizens must have lived in Germany or a Council of Europe country for at least 3 months within the last 25 years.<sup>37</sup> They request inclusion on a local voter registration roll; the request form is available 9 months before the election on the website of the *Bundeswahlleiter* and at diplomatic missions abroad. Upon receipt of the request, the ballot will be sent to the foreign address given and it must be returned to the local voting office by 6 p.m. on voting day. If the foreign postal service is unreliable, both request and ballot may be sent and received via consulate or embassy; voting remains postal only. German citizens living in another EU country may vote for European Parliament elections either in Germany or in their country of residence.

**Consular Support** The Consular Act, as noted above, governs the actions that consular officers can take vis-à-vis German nationals abroad. There is a great deal of discretion granted to consular officials. Although the law defines whether the consular authority may intervene, if intervention is legally permitted, the consular officer's discretion is substantial, in form, type and degree (Lenz 2017, 183).

<sup>33</sup>[https://www.bundeswahlleiter.de/dam/jcr/49fd7b4e-436c-45c3-baed-e9d8ffb8c547/anwendungshinweise\\_12\\_bwg.pdf](https://www.bundeswahlleiter.de/dam/jcr/49fd7b4e-436c-45c3-baed-e9d8ffb8c547/anwendungshinweise_12_bwg.pdf). Last accessed 30 April 2020.

<sup>34</sup><https://www.bundestag.de/bundestagswahl2017/auslandsdeutsche/213246>. Last accessed 30 April 2020.

<sup>35</sup>[https://www.bundeswahlleiter.de/info/presse/mitteilungen/bundestagswahl-2017/06\\_17\\_deutsche\\_im\\_ausland\\_antrag.html](https://www.bundeswahlleiter.de/info/presse/mitteilungen/bundestagswahl-2017/06_17_deutsche_im_ausland_antrag.html). Last accessed 29 May 2019.

<sup>36</sup><https://www.bundeswahlleiter.de/bundestagswahlen/2017/informationen-waehler/deutsche-im-ausland.html#1caa4dd1-5f18-4cbe-8af5-eeed483a69b7>. Last accessed 30 April 2020.

<sup>37</sup><https://www.dw.com/de/wählen-aus-dem-ausland-so-geht-es/a-1645952>. Last accessed 30 April 2020.

The Ministry of Foreign Affairs has a page clearly stating what consular and honorary consular officers may and may not do for Germans living abroad.<sup>38</sup> A consular officer may, in an emergency situation, offer advice, issue a replacement passport, help an individual to contact a friend or relative, inform him/her about means of receiving money, arrange for a lawyer in the case of arrest, issue a certificate of death or birth and, in the case of the death of a German citizen, notify next of kin and give information about dealing with formalities, including arranging for the transportation of the remains of a deceased German to Germany. More routine procedures include registrations of births of German citizens abroad, issuance and renewal of passports, issuance and/or signature of various certificates, etc.

The European Consular Protection Directive of 20 April 2015 was transposed into German law on 1 May 2018. § 9a of the Consular Act is the specific legal transposition, allowing German citizens to receive help from other EU consular officials, if Germany does not have representation in a given country.<sup>39</sup>

All German citizens living abroad may request a passport. An appointment must be made, and the individual must come to the consulate in person. Previous passport, birth certificate (in original and one copy), certificate of de-registration from Germany (unless previous passport already reflects residence abroad), two passport photos and a form are required. For minors, additional forms, such as parents' marriage certificate, or proof of parents' German citizenship, may be required.

Children born abroad to a German citizen receive German citizenship at birth, as long as that birth is registered at a consulate within one year. A child may hold two or more citizenships from birth, if, for instance, born to a German and a non-German parent and/or if born in a country with *jus soli* attribution of citizenship. From the German perspective, there is no need to choose one of the citizenships at any point. Adult Germans who choose to acquire another citizenship (aside from EU states and Switzerland), must, in principle, give up their German citizenship. However, exceptions can be applied for, and are granted on various bases, in accordance with the Citizenship Law (*Staatsangehörigkeitsgesetz*).

Even though there is considerable discretion for consular officers under various articles of the Consular Act (see below), there are clear points in which they may not engage. For instance, they may not issue drivers' licenses, pay hotel, hospital or other bills or fines, intervene in court proceedings, act as a lawyer or a branch of a travel office, bank or health insurance, pay extremely high costs of a search and rescue action, or pay for the costs of transporting a deceased person's remains to Germany.

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<sup>38</sup> <https://www.auswaertiges-amt.de/de/ReiseUndSicherheit/reise-und-sicherheitshinweise/konsularinfo/hilfe-av>. Last accessed 29 May 2019.

<sup>39</sup> <https://www.bundesrat.de/DE/plenum/bundesrat-kompakt/18/966/966-node.html#top-1>. Last accessed 29 May 2019.

### 12.2.3.1 Cultural Institutions

**German Schools** The coordination of the German Schools Abroad (*Deutsche Auslandsschulen*) was taken over by the BVA in 1968, coordinating material, pedagogical and financial support of those schools. Financed in part by the German Foreign Office, there are 140 German schools abroad, aiming to provide foreign (local) and German students with a German *Abitur* (high school leaving certificate) and access to higher education and technical training in Germany. Of the 82,000 students enrolled in German schools worldwide, about one-third are German citizens. Substantial fees are charged. Although German schools may serve as – and often do – focal points for a local German population, there is no preferential treatment for German nationals abroad, whether with regard to admissions policies, recruitment or fees.

**Deutsche Welle** Established in 1953, *Deutsche Welle* (DW) radio and television is a German public broadcaster financed by federal tax funds. Its stated aim has changed over the years. DW was initially intended to counter Soviet propaganda about West Germany, as well as providing information to East Germans, with the aim of maintaining German unification as a goal.<sup>40</sup> Today's goals, as laid out in the 2004 Deutsche Welle Act,<sup>41</sup> are to foster the German language, to disseminate information about Germany as a democratic state, and to lead to cultural exchange. While it certainly will attract Germans, this is not its stated aim.

**Goethe Institute** The *Goethe Institut*<sup>42</sup> is Germany's cultural institute aiming to provide German instruction for those who wish to learn German and create focal points for education and culture. Its primary audience is non-Germans (for instance, students or applicants for spousal visas in Germany must demonstrate German language competences and can seek training and/or testing at the Goethe Institute). The first Goethe Institute was established in 1952 in Athens. Currently, there are 159 Goethe Institutes in 98 countries and more than 1100 points of contact including cooperative arrangements for language testing, reading rooms, German-foreign cultural associations, etc. Primarily intended as a place of cultural encounter and education, the Goethe Institute's programs cover a range of topics, some more appropriate for language learners, others appealing to a German audience as well. Goethe Institute premises certainly do serve as host for events for Germans from time to time, but this is not its intended focus or function.

**Return** There are several possibilities for highly-skilled Germans to receive financial support to return to Germany. The Return Stipendia for Germans Abroad

<sup>40</sup> <https://www.bundestag.de/resource/blob/406622/efa899d31b03a229a4c201e59d36e003/WD-10-098-15-pdf-data.pdf>. Last accessed 30 April 2020.

<sup>41</sup> <https://www.dw.com/downloads/26315376/dwgesetzneues-cd.pdf>. Last accessed 30 April 2020.

<sup>42</sup> <https://www.goethe.de/en/index.html>. Last accessed 30 April 2020.

(*Rückkehrstipendien für Deutsche aus dem Ausland*) are financed by the German Academic Exchange Service (*Deutscher Akademischer Austauschdienst – DAAD*). There are a number of stipendia available for German scientists seeking to return to Germany.<sup>43</sup> These initiatives are financed by various German ministries, particularly the German Foreign Office, as well as with EU funding and others, including government and private. This initiative is intended to support German academic institutions' recruitment goals, not primarily as a means of assisting academics. Some German federal states are undertaking their own return initiatives – Bavaria invites Germans living abroad to “Return to Bavaria”, while Brandenburg encourages former Brandenburg residents to return, either from elsewhere in Germany or from abroad. All training would occur after a successful application for such a program, and after a return to Germany, and not in preparation for a return.

### 12.3 Diaspora Policies and Social Protection in Germany

As noted above, with the exception of pensions, social protection is available to Germans living abroad only on the basis of exception. The Consular Act is the most relevant legislation, with §5 – “Assistance for Individuals” – allowing for discretionary actions by consular officials under emergency and unusual circumstances.

Above all, the philosophy underlying social protection policies is that of rights being granted on the basis of the place of residence. These rights are available to those who live in Germany. For German nationals living abroad, exceptions extending protection can be contemplated only if the rights are not available, or not available to that individual, in the country of residence. §5 (1) specifies that help shall not be given to dual citizens whose habitual place of residence is the country of their second citizenship.

This philosophy of the residence-based rights also underlies and explains the substantial provision of pensions to German nationals abroad – pension rights accrue on the basis of past contributions and the pension is not granted on the basis of current residence or status. Insofar, the logic of rights based on residence is upheld with this seemingly exceptional protection.

Consular officials are granted broad discretion. They are instructed to respect and support relations between Germany and the country of their posting, in particular to support the foreign relations and development relations, as well as traffic rules, culture and law. They are further instructed to give German citizens assistance and advice, as appropriate. They are not instructed explicitly to work with any Ministry in Germany, except in their role as civil servants of the Foreign Office.

In terms of information strategies, the Federal Foreign Office and the Federal Agency for Emigrants and those Working Abroad have extensive and substantial

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<sup>43</sup> <https://www.daad.de/ausland/reintegration/stipendien/de/22184-rueckkehrstipendien-fuer-deutsche-aus-dem-ausland/>. Last accessed 29 May 2019.



information on the provision – as well as on the lack of provision – of rights and protection abroad. Both provide links to relevant Ministries, where further information on (the limited) access to rights is given.

With respect to repatriation, §5 of the Consular Act states that in strictly defined single cases, “if it is advisable”, generally in an emergency situation, a consular officer’s help may include enabling an individual’s return to his/her place of habitual residence, or to another place. Any such costs are to be repaid by the individual. Furthermore, § 6 of the Consular Act specifies that under generalized situations of catastrophe, including natural disaster, war or revolutionary developments, consular officials shall take necessary measures to offer help and protection. Any costs that arise are to be repaid, although exceptions can be made if the situation in the country or an individual’s personal circumstances are such that repayment is not possible. The Foreign Office website includes a story about the evacuation of 200 German and EU citizens in 2016 from South Sudan, as heavy battles broke out. They were evacuated to Uganda, and from there, travel back to Germany or elsewhere was arranged.<sup>44</sup>

### 12.3.1 *Unemployment*

With respect to drawing unemployment benefits while abroad, there are substantial differences for a German citizen residing in an EU Member State or in a non-EU country. There are also differences between EU countries and third countries as to whether an individual moves out of Germany while unemployed, or loses a job while living abroad.

A German citizen drawing unemployment support may, on application, and after 4 weeks, move to another EU country or Switzerland in search of work. The move is in principle limited to 3 months, but can be extended to a maximum of 6 months.<sup>45</sup> The legal basis for unemployment support is laid out in the Third Social Code (*Sozialgesetzbuch III*), Labor Promotion (*Arbeitsförderung*) §137.

Unemployment support (*Arbeitslosengeld*) is not paid to Germans who have returned to Germany from working abroad, who lost that employment and remain unemployed. They should draw on the unemployment system of their country of employment (although they may have lost that right by returning to Germany). In the case of a move from an EU country, an application can be made prior to migration to continue drawing on that support in Germany for a maximum of 3 months.

On the other hand, employment in another EU country or Switzerland can be calculated in to the required 12 months of employment (within the previous 2 years) necessary for unemployment benefits, as long as there has been subsequent

<sup>44</sup> <https://www.auswaertiges-amt.de/de/aussenpolitik/laender/suedsudan-node/160714-evakuierung/282266>. Last accessed 29 May 2019.

<sup>45</sup> [https://con.arbeitsagentur.de/prod/apok/ct/dam/download/documents/dok\\_ba013155.pdf](https://con.arbeitsagentur.de/prod/apok/ct/dam/download/documents/dok_ba013155.pdf). Last accessed 29 May 2019.

employment in Germany.<sup>46</sup> The unemployment must arise after the employment in Germany, regardless of how short that period of employment in Germany is. Unemployment assistance will not be granted on the basis of employment abroad only. This does not apply for a third country: a German citizen can not draw on time worked in a non-EU country in calculating eligibility for unemployment support, even if it is followed by employment in Germany. Only the time in Germany or an EU country or Switzerland will count.

Training abroad is supported by the German Government only insofar as it is part of a training program based in Germany, and the training outside of Germany is an integral part of that training (§58). Programs supporting returning Germans is limited to those addressed above, within the context of a return of highly-skilled German nationals.

In the case of German citizens who have returned from abroad and do not qualify for unemployment support (*Arbeitslosengeld*), they would then be eligible for unemployment support, part II (*Arbeitslosengeld II*), colloquially known as *Hartz IV* (see below). For those individuals who are above retirement age or who are disabled, a different support mechanism applies, as described below.

### 12.3.2 Health Care

Health insurance, in principle, covers only care in Germany. German citizens who hold health insurance in Germany are, however, covered in EU and EEA states, on presentation of the EHIC (European Health Insurance Card), and only for brief trips. Individuals who are normally employed in Germany and are sent on a work assignment to another EU/EEA state for a short period may continue to hold health insurance in Germany. Germany holds agreements with several states (Israel, Tunisia and Turkey<sup>47</sup>) by which German health insurance – if the individual is insured and normally resident in Germany – will cover health care costs in those countries. Otherwise, individuals are advised to take out an additional travel health insurance or, in the case of emigration, are expected to be insured in their country of destination.

### 12.3.3 Pensions

Individual access to pensions is the other policy area (in addition to voting) with a clear inclusion of German nationals living abroad. Indeed, German citizens who had earned an income in Germany and now live abroad have the same eligibility for

<sup>46</sup>[https://con.arbeitsagentur.de/prod/apok/ct/dam/download/documents/dok\\_ba013155.pdf](https://con.arbeitsagentur.de/prod/apok/ct/dam/download/documents/dok_ba013155.pdf). Last accessed 29 May 2019.

<sup>47</sup>[https://www.bundesgesundheitsministerium.de/fileadmin/Dateien/5\\_Publikationen/Gesundheit/Broschueren/BMG\\_Krankenversicherung\\_Ratgeber.pdf](https://www.bundesgesundheitsministerium.de/fileadmin/Dateien/5_Publikationen/Gesundheit/Broschueren/BMG_Krankenversicherung_Ratgeber.pdf). Last accessed 29 May 2019.

pensions as those currently residing in Germany. To be eligible, an individual who has reached pensionable age must have worked in Germany for at least 5 years. An individual who has reached the age of early retirement (63 years of age) must have worked for 35 years. While there are some exceptions in which pensions can be limited (although not in other EU/EEA countries), for the most part, pensions earned in Germany are accessible to all of those who have since moved abroad. Germans living abroad receive pensions based upon the time worked in Germany. For questions of taxation – pensions are taxable, although depending on the level, tax may or may not be due – for those who live outside of Germany, and whose only income from Germany is a pension, the Finance Office in New Brandenburg is responsible.<sup>48</sup> Annual income statements must be provided to the Finance Office; these can be signed by consular and honorary consular authorities, with the form available on the embassy webpage.

Pensions can be applied for from either within Germany or abroad. The German pension scheme website explains eligibility and gives information on pensions and social insurance.<sup>49</sup> Information is available on how to apply, and on the procedures in place. Pensions are paid directly by the pension insurance scheme (*Rentenversicherung*) into the individual's bank account. In order for this to happen, a life certificate (*Lebensbescheinigung*) and a citizenship certificate (*Staatsangehörigkeitsbescheinigung*) are required for the payments to be initiated. Both consular and honorary consul authorities can issue these certificates. The "Pensions without borders" (*Rente ohne Grenzen*) page gives information on drawing pensions abroad, as well as on the procedures for combining work abroad and work in Germany for a pension in Germany or abroad.

For those who have not worked the minimum time in Germany, there are agreements both within EU and with EEA countries as well as with numerous other countries<sup>50</sup> which allow for cumulating the contribution period; time worked in one or more of these countries counts as if the time had been worked in Germany.

For those German citizens, normally resident in Germany, who have not been formally employed for the minimum time period for eligibility and who are above retirement age, a basic security (*Grundsicherung*) is guaranteed. This does not apply to those living outside of Germany.

<sup>48</sup> <https://www.finanzamt-rente-im-ausland.de/de/>. Last accessed 30 April 2020.

<sup>49</sup> [https://www.deutsche-rentenversicherung.de/Allgemein/de/Navigation/2\\_Rente\\_Reha/01\\_Rente/01\\_allgemeines/05\\_rente\\_und\\_ausland/grundlagen\\_node.html](https://www.deutsche-rentenversicherung.de/Allgemein/de/Navigation/2_Rente_Reha/01_Rente/01_allgemeines/05_rente_und_ausland/grundlagen_node.html). Last accessed 29 May 2019.

<sup>50</sup> <https://www.bundestag.de/resource/blob/502398/9b86244c1c207ce4bbae402a5441f17e/WD-6-144-16-pdf-data.pdf>; <https://www.bmas.de/DE/Themen/Soziales-Europa-und-Internationales/Meldungen/sozialversicherungsabkommen.html>. Last accessed 29 May 2019.

### 12.3.4 *Family-Related Benefits*

The Federal Child Benefit Act (*Bundeskindergeldgesetz*) allows for the payment of a monthly cash benefit per child until the age of 18 (or 25 if the child is in full-time education); this applies to all children registered in Germany, regardless of citizenship and regardless of income level. For German children living abroad, parents may receive the cash benefit if at least one parent is a general tax payer in Germany (e.g. has been sent abroad by a German employer for a defined time period or is a civil servant working abroad), or if at least one parent is paid as a development worker or missionary.<sup>51</sup> In the case of divorced or separated parents, the child benefit is, in domestic German cases, paid to the parent with whom the child lives. If one parent lives outside of Germany, and has primary custody of the child/children, then the parent living in Germany does not receive the child benefit. The parent living outside of Germany receives a child benefit only in line with the relevant national legislation, not German legislation.

### 12.3.5 *Economic Hardship*

German citizens living abroad are not eligible for any form of welfare payment or social assistance. German citizens who return to Germany, are unemployed and who do not qualify for unemployment support are, however, eligible for unemployment support II (*Arbeitslosengeld II*), or *Hartz IV*, but only upon a return to Germany. The eligibility requirements for *Hartz IV* are that individuals are aged over 15, are able to work a minimum of 3 h per day, have their usual residence in Germany, and do not have sufficient (household) income to survive. *Arbeitslosengeld II*, unlike *Arbeitslosengeld*, cannot be taken to another EU/EEA country.

Financial assistance to Germans living abroad is possible only under exceptional circumstances. §5 Consular Act, Assistance for individuals (*Hilfeleistung an einzelne*), specifies that in strictly defined single cases, if it is advisable, a consular officer may offer financial assistance. Any such costs are to be repaid. Open hotel or hospital costs or fines will not be paid.

If an emergency situation continues for more than 2 months, and it is not possible for the individual to return to Germany (due to child care responsibilities, lengthy hospitalization or imprisonment), then Book 12 of the Social Code shall be applied (§24).<sup>52</sup> Assistance will not be given if it would normally be expected from the

<sup>51</sup> [https://con.arbeitsagentur.de/prod/apok/ct/dam/download/documents/KG2-MerkblattKindergeld\\_ba015394.pdf](https://con.arbeitsagentur.de/prod/apok/ct/dam/download/documents/KG2-MerkblattKindergeld_ba015394.pdf). Last accessed 29 May 2019.

<sup>52</sup> *Sozialgesetzbuch (SGB) Zwölftes Buch (XII) – Sozialhilfe*. [https://dejure.org/gesetze/SGB\\_XII/24.html](https://dejure.org/gesetze/SGB_XII/24.html). Last accessed 29 May 2019.

country of residence.<sup>53</sup> Such assistance would be processed by the local social authorities, together with consular officials. This policy came into force in 2004 and is a restriction of the earlier policy, which was based on discretionary procedures, but had more flexibility. Consular officials can put individuals into contact with NGOs that provide assistance.

A court case sheds some light on how this might work in practice: a German man sought welfare, arguing in 2010 that he had lived in Thailand since the 1990s, “with short interruptions”, had a child who only spoke Thai, and that he needed to remain in Thailand to care for her. The court found that, since he had been registered in Germany for lengthy periods in the 2000s, he could not be said to have lived nearly continuously in Thailand, and the request for social assistance was denied (Fredri Skwar 2016). Social assistance or welfare support for Germans living abroad remains the exception.

## 12.4 Conclusions

Although Germany now solidly recognizes itself as an immigration country, the memory of being an emigration country still affects its policies, with protection of emigrants from unscrupulous agents being one key element. Germany still seems to maintain an overriding belief that those who have emigrated have, in doing so, severed all ties and connections. Germany seems not to think of Germans abroad living long-term or permanently abroad as a population of citizens maintaining ties, or needing assistance, but rather as having become citizens or long-term residents elsewhere, perhaps because of its long history as an emigration country. Indeed, there is neither an explicit emphasis on German emigrants nor are there many policies in place which are intended specifically for them. Rights are largely granted on the basis of residence (in Germany), rather than (German) citizenship. Two exceptions do emerge, with access to voting rights and to pension rights strongly facilitated. Other rights are granted only on an exceptional basis, with consular authorities playing a role in facilitating that access.

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<sup>53</sup> <https://www.bundestag.de/resource/blob/502398/9b86244c1c207ce4bbae402a5441f17e/WD-6-144-16-pdf-data.pdf>. Last accessed 30 April 2020.

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# Chapter 13

## Diaspora Policies, Consular Services and Social Protection for Greek Citizens Abroad



Michalis Moutselos and Georgia Mavrodi

### 13.1 Introduction

The present chapter is a synopsis of the institutions and policies developed by the Greek state to establish bonds with and accommodate the needs of Greek citizens residing abroad permanently, which go beyond European Union (EU) obligations. It first covers the formal institutional infrastructure and representative bodies engaging with Greek citizens abroad and then overviews general policies that affect them (voting, education, administrative assistance, economic incentives). It subsequently zeroes into policies of social protection in the fields of unemployment, health care, pensions, family-related benefits/services and economic hardship.

Generally speaking, Greek diaspora policies are more institutionalized around and focused on the older generations of migrants and adapted to the needs present in some major destination countries (for example, Germany). These features can be explained by the fact that earlier migration (for guestworkers and their families) was itself more institutionalized, while recent migration of Greek citizens is less formalized and more diverse. Greek diaspora policies often emphasize Greek descent, blood ties, religious affiliation and language and are not restricted to citizens. At the same time, non-state actors such as organized Greek communities and the Greek Orthodox Church cooperate with the Greek state in the implementation of these policies. The existing diaspora-policy infrastructure is developed along several dimensions, including, for instance, educational opportunities for the children of Greeks living abroad and strong ties with religious (Greek-Orthodox) organizations. Generally speaking, institutional formalization and entrenchment are not as advanced as the size of the diaspora would foretell. Ad hoc informality is often the

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reigning principle in certain areas of social protection, in particular regarding aid in cases of financial or health-related emergency. In other areas, such as the provision of a General Minimum Income to all citizens, the absence of specific policies abroad reflects the embryonic state of social protection at home.

## 13.2 Diaspora Policy Infrastructure and Key Policies

### 13.2.1 *The Diaspora and Its Relations with the Homeland*

Greek-speaking, Christian-Orthodox communities had been present on the Balkan Peninsula, in the eastern Mediterranean, in Asia Minor and the Black Sea region long before the creation of the modern Greek state (1830). Following momentous events, such as the Greco-Turkish wars (1919–1922), World War II and the subsequent Civil War (1939–1945, 1946–1949), and in response to fluctuating economic conditions/opportunities throughout the twentieth century, the geographic reach of Greek migration was expanded to include the Americas, Australia and countries in Western Europe (notably West Germany in the postwar period) (Kasimis 2013; Fakiolas and King 1996). Although by the end of the twentieth century Greece had completed a spectacular reversal of migratory flows and become a major country of destination itself, the severe economic crisis of 2010–2016 increased migratory outflows of Greek citizens yet again (Mavrodi and Moutselos 2017).

The size of the Greek diaspora is difficult to calculate precisely, because it includes second or third generation non-citizens, as well as Greek citizens residing in European Union countries who have not been removed from municipal registrars in Greece. According to the most recent national census statistics, the five most important countries of destination for Greek citizens, that is, based on the number of Greek citizens residing in them, are Germany, the United States (US), Australia, Canada and the United Kingdom (UK). Indeed, in countries of earlier migration, such as the United States and Australia, populations of Greek origin are estimated in the hundreds of thousands (G.G.A.E. 2007). Other important countries of destination include Cyprus (about 30,000), Belgium and Switzerland (about 15,000 each), France (7000), the Netherlands, Sweden and South Africa.

### 13.2.2 *Diaspora Infrastructure*

Greece runs an extensive consular network consisting of embassies and consulates in countries officially recognized by the Greek state. The various functions described in this chapter are, as a general rule, the responsibilities of official consular authorities and, in a number of cases (maritime affairs, arrests, detentions, incarcerations, inheritance affairs), the E3 Directorate of the Ministry of Foreign Affairs. In

addition, honorary consuls provide official certifications of documents for purposes of residence registration, confirmation of employment/studies for Greek citizens living abroad (to be used, for example, for purposes of delaying military enrolment or for tax purposes) and authentication of birth/marriage/death certificates. Honorary consuls do not issue travel documents (for example, passports and visas).

One of the recurring issues that renders the relationship between Greek state authorities and nationals living abroad administratively complicated has been the absence of an official registry of this population, as well as the absence of an obligation to deregister from municipal registries in Greece. As a result, many Greeks residing abroad are not officially recognized as such. The situation has started changing in recent years. In the aftermath of the recent economic crisis, Greek authorities sought to tax the estimated income of those who emigrated abroad, based on proof of consumption in Greece (ownership of a vehicle or a real estate property in Greece). This has de facto resulted to taxation in Greece on top of taxation in their country of residence and employment and has led many to register officially in the tax authority of Greek nationals residing abroad (*ΔΟΥ Εξωτερικού*).

Aside from consular and diplomatic authorities, a number of official state institutions and agencies exist in Greece to provide coordination, representation and consultation of Greek nationals living abroad. The General Secretariat for Greeks Abroad (*Γενική Γραμματεία Απόδημου Ελληνισμού*, hereafter G.G.A.E.) is the government's coordinating body for the implementation of state policy with respect to nationals abroad. At the same time, G.G.A.E. implements policies to mobilize and coordinate non-citizens of Greek origin. For this purpose, that is, to encompass both groups in its outreach and coordination efforts, it uses the term "Diaspora Hellenism" (*Ελληνισμός της Διασποράς*). G.G.A.E. was created in 1983 and is a subdivision of the Ministry for Foreign Affairs. The Secretary is typically a government appointee. The overall objectives include the promotion of Greek culture, language, education and the cooperation with Greek community organizations and institutions abroad.<sup>1</sup>

Under the auspices of the Greek parliament, the Special Permanent Committee for Diaspora Greeks (*Ειδική Μόνιμη Επιτροπή για τον Ελληνισμό της Διασποράς*) is a permanent committee composed of 30 members of parliament (MPs) with the specific role of promoting cooperation with "Diaspora Greeks" abroad, registering issues of interest to the diaspora and representing the Greek parliament in an official capacity vis-a-vis Greeks abroad. Much like G.G.A.E., it targets simultaneously Greek nationals living abroad and foreign nationals of Greek origin. It is also meant to work with the General Secretariat of Greeks Abroad and the World Council of Hellenes Abroad.<sup>2</sup>

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<sup>1</sup>*Geniki Grammateia Apodimou Ellinismou* (General Secretariat for Greeks Abroad), "Main Web Page", accessed May 7, 2018, <http://www.ggae.gr/>

<sup>2</sup>*Eidiki Monimi Epitropi gia ton Ellinismo tis Diasporas* (Special Permanent Committee for Diaspora Greeks), "International Affairs: Diaspora Greeks", accessed May 7, 2018, <https://www.hellenicparliament.gr/Diethneis-Drastiriotes/Diethnes-Perivallon/Ellinismos-tis-Diasporas/Epitropi-Apodimou-Ellinismou/>

Beyond state, governmental and parliamentary institutions, the World Council of Hellenes Abroad (*Συμβούλιο Απόδημων Ελληνισμού*) is the main body representing people of Greek ethnic descent who reside abroad. As is the case with the aforementioned institutional bodies, its statutory commitments lie with both nationals and non-nationals of Greek descent. The stated goal is “to bring together the Greeks of the Diaspora creating a global network aimed at planning and materializing programs for the benefit of the *Omogeneia* (Greek migrants and their descendants) to be subsequently conveyed to the Greek State, thus fulfilling its role as an advisory and consultative body.”<sup>3</sup> Members can be community organizations (federated and non-federated) abroad, assemblies of Greek community parishes (further reflecting the important role of the Greek Orthodox Church), and other influential expatriate organizations. Elections take place every 4 years and representatives from all member organizations vote for their regional representatives in the Council’s geographical branches, roughly one per continent (electronic vote is possible), as well as for the President of the World Council.

Upon its creation, the World Council was recognized by a Decree of the President of the Hellenic Republic as the main advisory and consultative body of the Greek diaspora towards the Greek state. Delegations of representatives are composed during regular elections at the level of “world regions”. Consultation takes place in the form of annual reports to the Greek parliament and irregular hearings and consultations. With regard to social protection, the founding decree (Law 2006/3480) of the World Council does not stipulate a general mission of assistance/administrative support to Greek citizens abroad and does not provide an official outline of the responsibilities of members and elected officials. Generally speaking, the World Council enjoyed high visibility during the 1990s but it has lost importance during the last two decades. At the time of writing, the Council appears to be in dormancy, but is still recognized officially in the Greek Constitution, allowing its elected representatives to claim it is inactive but not dissolved. However, current and immediately previous administrations have not recognized it in its current function and have not authorized the convening of the body to elect a new board since 2010. The new structure of the World Council remains to be formalized in the coming years (Kathimerini 2014; Ta Nea 2015).

### 13.2.3 Key Engagement Policies

Article 108 of the Greek Constitution reiterates the commitment of the Greek state “to care for the life of migrant Greeks (*αποδημος ελληνισμός*) and for the maintenance of ties with the Motherland. [The Greek State] also provides for education and social/professional advancement of Greeks who work abroad.”

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<sup>3</sup> World Council of Hellenes Abroad, “SAE at a Glance”, accessed May 8, 2018, <http://www.sae.gr/?id=12378&tag=SAE+at+a+glance>

The article does not specify whether the term “migrant Greeks” or “Greeks who work abroad” refers only to those with Greek citizenship – the Constitution sometimes refers just to “Greeks” to refer to Greek citizens, but it is not clear that this is the appropriate interpretation for Article 108. The Greek Constitution, including Article 108, dates back to 1975, just before Greek guestworkers from Western Europe began to return to Greece. The Article most probably referred to those Greek citizens and their descendants, as well as Greeks in the US, Canada and Australia, who had emigrated in the 1950s and 1960s.

At the same time, the Greek state practices a regular, if not fully institutionalized, policy vis-à-vis Greek Orthodox communities/parishes abroad, including in the main countries of destination. Greek Orthodox churches abroad fall, generally speaking, under the jurisdiction of the Patriarchate and not the Church of Greece, the latter having more direct and explicit links with the Greek state. Still, Greek ambassadors hold ties, attend liturgies, invite Church officials in official capacity and meet regularly with important ecclesiastical personalities, such as the Archbishop of North America, Patriarchs of Alexandria and Jerusalem, etc. An informal parliamentary “Committee on Matters of Hellenism and Orthodox Church”, as well as an “Interparliamentary Assembly on Orthodoxy (I.A.O.)” formed at the initiative of the Greek Parliament regularly invites delegations from Orthodox countries to convene on matters pertaining to the Orthodox Church.<sup>4</sup>

On contentious issues, for instance those between the Patriarchate of Constantinople and Turkish authorities,<sup>5</sup> the Greek Ministry of Foreign Affairs intervenes in favor of Greek Orthodox Ecclesiastical authorities. It also coordinates with Church communities when there is a need of evacuating Greek nationals, members of their families or foreign nationals of Greek ethnic origin. As already noted, the World Council of Hellenes Abroad counts Greek Orthodox parishes among its members.

When it comes to the political engagement of the diaspora, Greece had long been somewhat of an outlier among EU countries in its restricted accommodation of the exercise of political rights from abroad. Although the Greek Constitution explicitly recognized the right to vote from abroad in national elections since 2010, no statute had been passed in parliament to make the exercise of this constitutional right possible (Christopoulos 2018). This meant a *de facto* obligation to return to Greece to vote in national, regional and local elections. In recent years, the issue reemerged in the public sphere and in parliament, and was perhaps the most-widely publicized issue related to Greek nationals living abroad especially in relation to recent migration, along with the overall issue of “brain drain” for the Greek economy. In December 2019 a bill was finally passed with a large parliamentary majority allowing Greek citizens living abroad to vote from their place of residence in Greek

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<sup>4</sup>Interparliamentary Assembly on Orthodoxy, “*Διακοινοβουλευτική Συνέλευση Ορθοδοξίας*”, accessed March 6, 2019, [http://eiaio.org/home\\_english\\_iao](http://eiaio.org/home_english_iao)

<sup>5</sup>Hellenic Ministry of Foreign Affairs, “*Oikoumeniko Patriarcheio*” (Ecumenical Patriarchate), accessed October 16 2018, <https://www.mfa.gr/zitimata-ellinotourkikon-sheseon/eidikotera-keimena/oikoumeniko-patriarheio.html>

embassies, consulates and other officially designated polling stations. The bill stipulated strict conditions for eligibility: to benefit from the provisions of the 2019 law Greek citizens living abroad must prove they resided in Greece for a minimum of 2 years over the last 35 years and submitted their tax declaration on income in Greece for the previous or the current year. Otherwise, there are no restrictions in running for elections from abroad, as long as the candidate has collected enough signatures from the district they intend to run; still, candidates must file a formal application in Greece.<sup>6</sup>

Most major Greek political parties have an organized subdivision/secretariat/sector for the issues of Greeks living abroad.<sup>7</sup> The language used to describe these party sub-structures (“Subdivision for Ecumenical Greeks”; “Sector for Diaspora Greeks”) demonstrates that issues of Greek nationals abroad are often subsumed under the overall “diaspora” policy. Even if Greek citizens do not have the option to vote from their place of residence, Greek political parties invest in retaining bonds with them and hope for to reap lobbying and investment benefits. In addition, largely due to the political ties between Greek political parties and Greek emigrants during the 7 years of military dictatorship (1967–1974), mainstream political parties still retain offices and party branches abroad in a number of West European countries.

Aside from broad policy frameworks, Greek consular authorities (embassies, consulates, honorary consuls) are responsible for the day-to-day needs of Greek citizens. Perhaps the most crucial function, the procedure to receive/renew passports, involves an in-person application at the consulate. The procedure involves checking the necessary application materials and passing on a request to home country authorities in charge of delivering passports (Passport Agency of the Greek Police under the Ministry of Interior). The passport is then mailed back to the consulate, but processing takes place by home country authorities. Consular authorities are not involved in issuing national IDs (*Δελτίο Αστυνομικής Ταυτότητας*) and driving licenses.

Another common service provided by consular authority is the certified transfer of tax residency abroad (*Μεταφορά φορολογικής κατοικίας στο εξωτερικό*). The Greek consular authorities are responsible for providing information to tax residents of Greece who (already reside abroad and) wish to transfer their tax residency to their country of destination. In particular, Greek consular authorities publish relevant information on their websites, and provide information by appointment. They are also endowed with the power to issue a document certifying the strong bonds of

<sup>6</sup>Hellenic Ministry of the Interior, “*Ενδιαφέρουν τους Υποψηφίους*” (Of interest to candidates), accessed March 6, 2019, <http://www.ypes.gr/el/Elections/NationalElections/DeputyElections/InterestCandidate/#a2>

<sup>7</sup>SYRIZA (*ΣΥΡΙΖΑ*) mentions the existence of a “Diaspora Sector” in their website. The main opposition party, New Democracy (*Νέα Δημοκρατία*), has a “Secretariat of Ecumenic Hellenism” (“*Grammateia Oikoumenikou Ellinismou*”), accessed 23 May 2018, <https://nd.gr/organosi/grammateies/oikoumenikoy-ellinismoy>. The third biggest political party, the social-democratic PASOK (*ΠΑΣΟΚ*), has a party “Secretariat of Diaspora Hellenism” (“*Grammateia Apodimou Ellinismou*”), accessed May 23, 2018, <http://www.pasok.gr/tomeis/>

the applicant with the country of destination (economic or personal) in case s/he is not able to provide other required documents to the Greek tax authorities.

Perhaps as a result of the large population of Greek nationals in Germany stemming from both earlier and recent migrations, Greek consulates in that country provide several administrative documents and certificates normally issued only in Greece, such as notarized acts, registrar certificates, criminal records, and provide an electronic signature service. Greek nationals residing in Germany can obtain the aforementioned documents in person at the consulate or in the case of electronic signature, from home. This service is part of a pilot program that started in 2015 and it is, for the time being, operational only at the Dusseldorf consulate. Greek consulates in Germany also provide services of authentication for certificates of automobile purchase for non-commercial purposes by Greek nationals residing in Germany, who purchase the automobile from private persons (*πιστοποιητικό αγοράς αυτοκινήτου από ιδιώτη*). The procedure is more expedient than for Greek citizens attempting to authenticate the certificate in Greece. Last but not least, Greek nationals residing in Germany are provided lists of certified translators at consulate website and in person. Each consulate in Germany has its own list for the area under its authority. Certified translators in the lists of the consulates provide translations from Greek to German or German to Greek and their signatures are automatically recognized as valid by the consulates.<sup>8</sup>

Repatriation services provided by Greek consular authorities to Greek nationals abroad and in distress are informal at best and non-existent at worst, except for facilitating services to transfer human remains. Consular services and obligations are set down in the Law 3566/2007 that stipulated and ratified the organizational characteristics of the Ministry of Foreign Affairs into an official code.<sup>9</sup> Therein are included the duties and discretionary functions of Greek consular authorities abroad (Article 52). There is no official or discretionary policy of handing out cash loans to Greek citizens living abroad and found in distress. In cases of serious illness or accident, consular authorities inform next-of-kin, arrange visits and provide information on existing services to the Greek citizens affected. A medical evacuation is predicated upon the consent of national authorities in Greece as well as the existence of financial resources – it is not stipulated whether, how much and when the person in need needs to pay for a medical evacuation (CARE 2010: 215).

Emergency evacuations have been organized in cases of natural disasters and war outbreaks. In the follow-up of the 2004 tsunami disaster, 200 Greek citizens and 6 EU citizens were evacuated from Phuket. The second case of mass-scale repatriation was the Lebanon 2006 crisis where 439 Greek citizens and 2217 other EU citizens were provided means of evacuation at no cost (CARE 2010: 216–217). In general, repatriation needs to be authorized by the Ministry of Foreign Affairs and takes place only in cases of utmost emergency as considered by the Ministry.

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<sup>8</sup> It should be noted, however, that this practice restricts the supply market for certified translators and often leads to higher-than-usual pricing.

<sup>9</sup> Nomos 3566/2007. Consolidated July 23, 2007.

The procedure for the transport of human remains (*Μεταφορά σωρού, οστών και τέφρας*) is a more established practice. Greek consulates provide logistical support for transport of human remains and issue a certificate of repatriation. They also inform national authorities, in order to contact the next-of-kin. Still, unlike repatriation, no special financial help exists for the transport of human remains.

Greek consular authorities offer a number of services facilitating moving one's residence and economic activity to Greece. Some of these services concern only Greek citizens who desire to re-establish residence/business ties with Greece, while others are also available to non-Greek citizens. For instance, persons (foreigners or Greeks) who have their permanent residence abroad and wish to transfer it to Greece, in order to settle permanently, may apply for a Certificate of Repatriation (*Πιστοποιητικό Μετοικεσίας*). The certificate allows them to import/transfer their personal belongings (household equipment and furniture, cars, pets, etc.), under relief from taxation provided. For EU countries, the certificate of repatriation alleviates the private vehicle tax levy, otherwise imposed on cars purchased in the EU by Greek customs.<sup>10</sup>

In the case of a transfer of secondary residence (*Μεταφορά Δεύτερης Κατοικίας*), the applicant can apply to be relieved from taxation. The tax relief applies to the furniture and other movable items that are imported to furnish or equip a residence in Greece, i.e. only for items of domestic use and items of domestic economy. The policy is applicable to persons who have their usual residence in a country outside the European Union and import domestic items, in order to furnish and equip a secondary residence in Greece.<sup>11</sup>

Greek consular authorities also process applications for the transfer of investment goods (*Μεταφορά Επενδυτικών Αγαθών*) to Greece under favorable conditions. Investment goods and other equipment items (machinery, instruments, appliances, etc.), when transferred to Greece from another country, are exempted from the Value Added Tax (V.A.T.), as well as from the import duty (in the event they are imported from a third country to the EU). The condition is that the above items are owned and have been used by a business (industrial, handicraft, agricultural, etc.), which permanently ceases its activity in the country where it was previously based, in order to practice a similar activity in Greece. These items should also be proportionate to the size and type of the company and should have already been in use for 12 months. EU citizens can also benefit from these financial incentives to move their business to Greece, but the process is expedited for Greek citizens who have a repatriation certificate from a Greek consular authority.<sup>12</sup>

An area where Greece has developed a multifaceted approach to the needs of Greek nationals residing abroad is in its language, culture and education policy. This reflects a strong belief that Greek language acquisition is one of the best determinants for retaining ties with the country of origin. Although Greece lacks a

<sup>10</sup>Hellenic Ministry of Foreign Affairs, “Πιστοποιητικό Μετοικεσίας” (Certificate of Repatriation), accessed March 6, 2019, <https://www.mfa.gr/usa/ypiresies/ypiresies-gia-ellines/pistopoiitiko-metikiesias.html>

<sup>11</sup>Ibid.

<sup>12</sup>Ibid.

functional equivalent of the British Council or the Goethe Institute for the promotion of Greek culture and education in other countries, there are a number of official programs targeted towards “the Diaspora”.

For example, the Ministry of Education runs primary and secondary schools in a number of countries (*Αμγή ελληνικά σχολεία του εξωτερικού*), including the UK and Germany, while teachers trained in Greek universities are sent to schools in the US, Canada and Australia, run by the local Greek communities, the Greek Orthodox Church, other non-state entities or the host country. The Greek embassy in London is particularly active in this area and has a special bureau for coordinating educational facilities in the UK. The Ministry of Education directly appoints a special consultant that runs the bureau. Their responsibilities include holding training seminars for teachers in Greek schools in the UK and organizing annual examinations for obtaining a Greek Language Certificate (*Πιστοποιητικό Ελληνομάθειας*). These programs recognize Greek language acquisition as a key principle of retaining ties with the diaspora. Most importantly, there are also special conditions for the acceptance of “Diaspora Greeks” to Greek public universities for undergraduate studies (*Ειδικό καθεστώς εισαγωγής ελλήνων μαθητών της διασποράς στα ελληνικά πανεπιστήμια για προπτυχιακές σπουδές*). Students attending Greek schools abroad for at least 2 years prior to their graduation or have attended high schools in EU countries take special exams and are given grade bonuses for entry to Greek public universities.

A host of other programs encourage cultural exchange among descendants of Greeks who reside abroad. The “program for the promotion of Greek language and culture” (*Προγραμμα ελληνικής γλώσσας και πολιτισμού*) is a 3-week program organized by the General Secretariat for Greeks Abroad and aimed at young “Diaspora Greeks”, including the children of Greek nationals living abroad. Participants typically come from countries outside the EU, including Australia. The program includes language and dance courses, visits to important cultural sites, universities, museums and the Greek parliament. Relatedly the program hosting Greek Diaspora Children in Greece (*Παγκόσμιο Πρόγραμμα Φιλοξενίας Παιδιών της Ελληνικής Διασποράς στην Ελλάδα*) allows children (8–12 years old) to be hosted in summer camps in Northern and Southern Greece for 2 weeks at no cost other than travel expenses and participate in cultural activities, Greek language classes, sports, excursions to sites of interest, etc. Last but not least, the National Scholarship Foundation (IKY-NSF) grants scholarships for postgraduate studies (*Υποτροφίες για μεταπτυχιακές σπουδές*) to citizens of another country to study in Greece; still, “Diaspora Greeks” are also encouraged to apply on the NSF official website. A special scholarship exists for Master of Divinity and Master of Theology students of Greek origin at the Holy Cross Greek Orthodox School of Theology of the Hellenic College of Boston to pursue part of their studies in the theology programs of Greek universities.



### 13.3 Diaspora Policies and Social Protection in Greece

In general, policies of social protection for Greek nationals living abroad, independently of the European Union framework, are relatively undeveloped. This is particularly true for unemployment benefits and minimum guaranteed income policies, reflecting the restrictiveness of the former and embryonic state of the latter in Greece itself. Generally speaking, consular services and obligations are set down in the Law 3566/2007 on the organizational characteristics of the Ministry of Foreign Affairs into an official code.<sup>13</sup> Several obligatory functions mentioned there are indirectly related to accessing social protection services in the host country (for example, providing information on host country authorities, official translations and document authentications, help with accessing documents from Greece electronically). There is, however, no explicit link between these administrative duties and accessing benefits/social protection from Greece or in the host country, nor is there an explicitly stated duty to help with the latter.

In contrast, policies and consular duties related to pensions, social insurance and health care provision (in Greece and abroad) are more developed, perhaps reflecting the needs of Greek nationals who migrated in the first post-war decades and have enjoyed more time and resources to advocate for such policies. For policies that do exist, the relevant information has not been collected or centralized (for instance via the G.G.A.E. or another subdivision of national ministries), but is typically disbursed by specialized national pension/health care authorities.

#### 13.3.1 Unemployment

There is no provision for granting unemployment benefits to Greek nationals residing abroad in the national legislation. By law, any absence abroad (even for a few days) is considered proof of non-availability and a ground for halting unemployment benefits in Greece. In practice, however, this applies only to long periods of absence or trips outside the EU or the European Economic Area (EEA) area whereby passport stamps reveal absence (and unavailability) for a specific period. At the same time, EU law allows a transfer of unemployment benefits for 3 months if moving to another EU country. Unemployment offices in Greece and the host EU country are involved in making sure the Greek claimant receives unemployment benefits in the EU host country, funded by the Greek unemployment agency (*Οργανισμός Απασχόλησης Εργατικού Δυναμικού*) but subject to the supervision of the host country's unemployment office.<sup>14</sup>

<sup>13</sup> Ibid.

<sup>14</sup> MISSOC (Mutual Information System on Social Protection). "Greece – Unemployment insurance benefits and unemployment assistance benefits", accessed October 15 2018, <http://ec.europa.eu/social/main.jsp?catId=1112&langId=en&intPageId=4571#navItem-moreTopic>

There are also no particular services undertaken by the Greek state/government institutions or consular authorities for providing information about access to unemployment benefits abroad. In particular, other than providing certified translations of home country documents that might be required by unemployment agencies in the host country, no further services exist.

There is, however, an agency that indirectly facilitates employment promotion for Greek nationals residing abroad. The Hellenic National Academic Recognition Information Center (*Διεπιστημονικός Οργανισμός Αναγνώρισης Τίτλων Ακαδημαϊκών και Πληροφόρησης*) is an organization supervised by the Hellenic Ministry of Education, responsible for the recognition of university or technical degrees that are awarded by foreign higher education institutions. Of more importance here, the Hellenic NARIC is also responsible for providing information about educational systems and accreditation of institutions in Greece and abroad. Although the focus is on degree recognition from abroad in Greece, the organization also provides information about degree accreditation abroad, with subsequent repercussions about employability of Greek citizens who are degree holders and want to work abroad.<sup>15</sup>

### 13.3.2 Health Care

In general, Greek consulates assist with transferring proof of hospitalization and cost breakdown (*Νοσήλια*/ hospitalization costs) to national health insurance organizations, but the conditions for coverage are exclusively determined at the EU level and the agreements between the EU and third countries. A subdivision of the Ministry of Foreign Affairs (E3 Directorate) assists with processing the documents provided by Greek nationals hospitalized abroad.<sup>16</sup>

Consulates are also involved in providing residency certificates and translations of health certificates for Greeks living abroad who are interested in being enrolled in a “Special Insurance Fund for Greeks living abroad” (*Ειδικός Λογαριασμός Ασφάλισης Ελλήνων Εξωτερικού*). Applicants can exclusively apply for the health insurance component, that is, for coverage provided during their stay in Greece. The insurance covers hospitalization costs, medicine and examination costs (see below for the pension component of the same Fund) incurred during a visit in Greece. The only condition for access is Greek citizenship or proof of Greek citizenship of ancestors, as well as a medical certificate about the health of the applicant. The main

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<sup>15</sup> Διεπιστημονικός Οργανισμός Αναγνώρισης Τίτλων Ακαδημαϊκών και Πληροφόρησης, Αρμοδιότητες (“NARICS Competences”), [http://www.doatap.gr/gr/narics\\_comp.php](http://www.doatap.gr/gr/narics_comp.php)

<sup>16</sup> Hellenic Ministry of Foreign Affairs, “Νοσήλια” (Hospitalization Costs), accessed March 6, 2019, <https://www.mfa.gr/ypiresies-gia-ton-politi/dioikitikes-ypotheseis/nosilia.html>

processing of the application is, however, carried out by central institutions in Greece.<sup>17</sup>

### 13.3.3 Pensions

Consulates are involved in issuing life certificates for Greek nationals who desire to continue claiming pension benefits from Greece. The process is the same for applicants residing permanently in the EU and non-EU countries. Consulates are also involved in authorizing translations required for pension claims of Greek nationals residing abroad. This service costs (at the time of writing, 30 Euros per authorization) are paid in the currency of the host country. Therefore, authorizations (as well as any direct translations offered) should be considered both as a service and a source of revenue for consular authorities.

Life certificates are required on a yearly basis (for Greek nationals living abroad who are entitled to a Greek pension) and are signed and stamped by Greek consular authorities. They are subsequently sent to the central Social Security Agency (previously IKA, now IKA-ETAM) in Greece. Although regulations do not clearly indicate whether central authorities in Athens counter-sign and stamp the certificates, a recent (2013) regulation requires that the pensioner sending the life certificate is also obliged to have a valid tax number (AFM) and social security registration number issued in Greece, a lack of which can lead to rejection of the claim to pension. In general, the claimant of a pension has two options of receiving the pension. The first option is to duly authorize a legal representative who is resident in Greece to receive the benefit on the beneficiary's behalf. A second option is for the beneficiary to provide the information of a bank account in Greece or any other EEA/SEPA country.

In terms of services provided by state institutions in Greece itself, the state's Social Security Agency for paid employees (IKA - ETAM) has a separate administrative division dealing with and providing information for pensions of Greek pensioners residing abroad. It also provides much of this information online.<sup>18</sup> The IKA-ETAM electronic service became particularly pertinent following the 2013 legislative change that required Greek pensioners residing abroad to report a Greek Tax Number and Social Insurance Registration Number. More generally, the IKA-ETAM website provides extensive information on regulations regarding Greece's Treaties and Agreements on the issue of pensions in the EU framework as well as with non-EU countries. However, the IKA-ETAM Subdivision responsible for

<sup>17</sup>Hellenic Ministry of Foreign Affairs, "Παροχή πληροφοριών για προαιρετική ασφάλιση Ελλήνων του Εξωτερικού" (Information on voluntary insurance of Greeks living abroad), accessed March 6, 2019, <https://www.mfa.gr/missionsabroad/images/stories/missions/denmark/docs/ika.pdf>

<sup>18</sup>"*Ilektronikes Ipiressies t. IKA-ETAM*", accessed October 5, 2018, <https://www.ika.gr/gr/infopages/t-ikaetam/eservices.cfm>

pensioners living abroad is not formally responsible for providing information or other assistance on access to host country pensions, except in cases where years of employment abroad count towards exercising a pension right in Greece. This is especially pertinent for potential pensioners who have been employed in non-EU destination countries. For instance, IKA-ETAM authorities are formally responsible for providing administrative support for the implementation of the Agreement on Social Security between Greece and Australia (signed in 2008), the Agreement on Social Security between Greece and the United States (signed in 1993) and the Agreement on Social Security between Greece and Canada (signed in 1981).<sup>19</sup> This includes documentation of coverage in Greece that counts towards eligibility for benefits in the aforementioned countries. These agreements benefit Greek citizens who would otherwise not be eligible for retirement, disability or survivors' benefits under the social security system of the foreign country. They also benefit Greeks who would otherwise have to pay Social Security taxes to both countries on the same earnings.

In addition to administrative assistance, IKA-ETAM has offered a self-insurance scheme with favorable conditions to Greek citizens or persons who can prove Greek ancestry residing abroad since 1984 (*Ειδικός Λογαριασμός Ασφάλισης Ελλήνων Εξωτερικού*- "Special Insurance Fund for Greeks living abroad"). The scheme includes both a pension and a health-insurance component (see section above) and applicants can apply for either or both. More specifically, applicants can enrol into the scheme regardless of work status, income, etc. and regardless of whether they are simultaneously insured through a host country social or health insurance scheme. The only condition is proof of Greek citizenship or Greek ancestry and, for the health component of the insurance, a health certificate issued by two doctors appointed by IKA-ETAM. Greek citizens residing in Greece have no access to this insurance scheme and do not enjoy similar favorable conditions of self-insurance. After 300 days of participating in the insurance program, the Greek citizens residing abroad can return to live permanently in Greece and continue participating in this special program, provided they are not insured through the main Greek public insurance schemes.<sup>20</sup>

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<sup>19</sup> See Social Security Administration, "Agreement on Social Security between the Government of the United States of America and the Government of the Hellenic Republic.", June 22, 1993; Department of Social Services, "Agreement between Australia and the Hellenic Republic on Social Security", October 1, 2008; Global Affairs Canada, "Agreement on Social Security between Canada and the Hellenic Republic", November 10, 1995.

<sup>20</sup> "Voluntary Insurance of Greeks living abroad", accessed October 5, 2018, [https://www.ika.gr/gr/infopages/t-ikaetam/20150529\\_odhgos\\_asfalismenou.pdf](https://www.ika.gr/gr/infopages/t-ikaetam/20150529_odhgos_asfalismenou.pdf)

### 13.3.4 *Family-Related Benefits and Services*

Generally speaking, Greek nationals residing abroad are not eligible for family benefits – by law, a proven residence in Greece in the last 10 years is a precondition for granting family benefits.<sup>21</sup> However, in practice the absence of registrars for those moving abroad and the recognition of filing an electronic tax return in Greece as proof of lawful residence means that Greek nationals residing abroad for only a relatively short period of time ranging from a few months to over a year are able to apply for and acquire family benefits.

Greek consular authorities issue birth certificates to the children of Greek nationals residing abroad (*Ληξιαρχική Πράξη Γέννησης*). The procedure is simplest when both parents are Greek nationals and married. The requirements then include a birth certificate from the host country authorities, the passport(s) of parents and a certificate from municipal registrars in Greece, which consular authorities are able to retrieve municipal registrar certificates automatically. When both parents are Greek nationals, but not married, the father must recognize the child officially and the document of recognition must be translated and, in the case of non-EU countries, authorized with an Apostille stamp. When the mother is not a Greek national, an additional official document (also translated and with Apostille stamp in the case of non-EU countries) has to prove that the mother was indeed not married during pregnancy. Greek consulates can also certify translations of birth certificates from Greece or of documents from other institutions in Greece that officially declare the sum of child benefits offered to one or both parents. This is important in the context of host country's child benefit institutions that agree to grant the difference between the sum of the host-country child benefit and the family benefit offered in Greece.

### 13.3.5 *Economic Hardship*

No specific service ensuring assistance in times economic hardship exists for Greek nationals officially residing abroad. For instance, no official or discretionary policy exists of handing out cash loans to Greek living abroad and found in distress. This reflects less any financial constraints and more the incomplete institutionalization of policies for economic hardship. Inside Greece itself, a very limited guaranteed minimum resource program started only in 2014 and was, until 2017, tied to services provided by Greek municipalities, thus requiring a proof of residence in the specific municipality. This novel, nationally implemented program (*Κοινωνικό Εισόδημα Αλληλεγγύης* – National Solidarity Income) includes conditions on available income, savings and property (Matsaganis et al. 2017) and is tied to official residence in

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<sup>21</sup>Independent Agency of National Revenue, “Οικογενειακά Επιδόματα – Πληροφοριακά Στοιχεία” (Family Benefits – Information), [https://www.aade.gr/sites/default/files/2017-05/oikog\\_epidomata\\_pliroforiakastoiχεια.pdf](https://www.aade.gr/sites/default/files/2017-05/oikog_epidomata_pliroforiakastoiχεια.pdf)

Greece. However in practice, and as is the case with unemployment and family benefits, there is no effective controlling mechanism to prevent applicants who have moved abroad, but have not yet acquired a status of permanent residence abroad or foreign tax residence, to apply for the benefit. At the time of writing, the Greek minimum income program is still in its infancy and details about the characteristics of claimants will likely emerge in the coming years.

## 13.4 Conclusions

Generally speaking, the services offered to Greek nationals abroad in the area of social protection are limited compared to the social policies offered to non-movers, because benefits are often tied to proof of residence in Greece. In practice, the lack of an official, updated registrar of Greek nationals residing abroad contributes to low enforcement of conditionality for provision of many services (for instance, unemployment, family and, since 2017, guaranteed minimum income benefits). At the same time, as already noted, there is a recent trend among Greek nationals who reside abroad to officially register their permanent foreign residence for tax purposes. This development may have spillovers into the social protection field - those who are registered as permanent residents abroad are ineligible for other benefits. Recent cuts in national budgets for social protection, as a response to the decade-long Greek economic and debt crisis, have not directly affected services offered to nationals abroad. Still, a number of consulates (for instance, in Germany, Belgium and France) were forced to suspend their services in 2010 (Kathimerini 2018).

Despite extensive public discussions about the “brain drain” of highly educated Greek nationals, there has been little concern about the social protection rights of Greek nationals residing abroad. It is assumed that the EU framework guaranteeing equal treatment with nationals of the host country in education, employment and social security, and existing international Treaties cover most needs. Still, the landscape of transnational social protection for Greek citizens is not uniform. As highlighted in this chapter, consular authorities in major countries of destination, such as Germany, Australia and the UK, offer a number of additional administrative services, for instance with regard to economic and educational services. In addition, the policy framework for older generations of migrants (in particular, related to health care and pension coverage) is more developed than the policy framework for new migrants that left Greece during the recent economic crisis (for instance, unemployment/family benefits). Last but not least, a number of special policies of social protection exist for specific professional groups, especially maritime personnel – not covered in this chapter. At the same time, one quickly notices the existence of several levels of informality in service provision, as consular employees act as informal nodes for granting information and easier access to health services, financing and employment opportunities in Greek diaspora communities. The importance of the Greek Orthodox Church, its role in extending social services informally and its ambivalent, if sometimes symbiotic, relationship with the Greek state should also

not be underestimated, making the country's policy comparable to other non-EU state policies in the area of religion (Turkey, Morocco). Greek orthodox parishes often participate in the representative bodies of the Greek diaspora and in emergency-service provision, enjoying, at the same time, autonomy from Greek authorities.

The representative institutions of Greek nationals abroad, such as the World Council for Hellenes Abroad and the General Secretariat for Greeks Abroad do not distinguish clearly between diaspora and Greek nationals in discourse or policy. This indicates an emphasis on "blood" ties rather than citizenship, as well as an over-representation of an older generation of migrants, whose descendants might no longer hold Greek citizenship. At the time of writing, these institutions find themselves at a hiatus and, in the case of the World Council, in full-blown crisis. Ongoing attempts to reform, in particular the World Council, are likely to bring about changes in the way Greek nationals residing abroad are represented vis-à-vis the Greek state in the decades to come.

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# Chapter 14

## Diaspora Policies, Consular Services and Social Protection for Hungarian Citizens Abroad



Eszter Kovács

### 14.1 Introduction

This chapter has two main objectives. First, it presents the general institutional framework by which Hungarian authorities interact with ethnic kin communities and nationals abroad, as well as the engagement policies with this population abroad outside of the area of social protection. Second, it offers an overview of the policies, programmes and services offered by the home country authorities to respond to the social protection needs of nationals abroad. The chapter argues that Hungarian policies for nationals and ethnic kin communities abroad primarily focus—in line with the nationalizing discourse and policies of the current Government—on culturally and politically engaging this population and on strengthening their national identity, while the effects of these policies in terms of social protection are less characteristic.

### 14.2 Diaspora Characteristics and Home Country Engagement

#### *14.2.1 The Hungarian Diaspora and Its Relation with the Homeland*

When talking about diaspora and nationals abroad in the case of Hungary, it has to be emphasised that the group of Hungarian citizens abroad is not only composed of emigrants, but it also includes a large number of ethnic Hungarians who were born

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abroad, and who might or might not be naturalized Hungarian citizens without residency in Hungary. A significant Hungarian minority lives in Slovakia, Ukraine, Romania and Serbia, due to the border changes of the twentieth century. The historic Hungary disintegrated in 1920, and, thus, Hungarian minority communities were created in neighbouring countries (Bárdi 2004). Today, 460,000 Hungarians live in Slovakia, 150,000 in Ukraine, 1.2 million in Romania, and 254,000 in Serbia (Kapitány 2015). They are eligible for preferential naturalization and thus can be Hungarian citizens without residency in Hungary since 2011.

Emigration from Hungary is hard to quantify (Blaskó 2015). National statistical data provided by home and host countries capture only one side of a transnational relation. In Hungary, nationals who emigrate officially are obliged to register their emigration with the Government's office or with the consulate,<sup>1</sup> although only a marginal proportion of emigrants do so. For example, official Hungarian statistical data suggest that the number of Hungarians leaving Hungary in 2012 was under 15,000, while mirror statistics from receiving countries showed almost 80,000 new Hungarian immigrants that year (Blaskó et al. 2014, 353). Host countries apply different methods to monitor their immigrants: some countries define immigrants by citizenship, while others do so by place of birth. The same methodological concern applies for the UN, the World Bank or OECD,<sup>2</sup> which usually include people who were born in Hungary decades ago, or left the country as children (e.g. after the 1956 revolution). Another problematic point refers to seasonal or commuter workers whose number is also difficult to estimate, and the unharmonised methodology of statistics makes it impossible to compare the number of Hungarian nationals abroad in the host countries.

The emigration potential in Hungary has been constantly growing since 1990. It peaked in 2012, then decreased until 2014. Since 2014, the migration potential of Hungarians has been fluctuating between 9% and 11% (Sík and Szeitl 2016). In addition, European statistics indicate that since 2012, around 100,000 people have left Hungary every year to move to other (mostly Western European) countries (Blaskó and Gödri 2014).

In 2013, an unconventional research project carried out by the Hungarian Statistical Office aimed to provide a more precise estimate of the number of Hungarians abroad by focusing on households. The research found that, at the beginning of 2013, there were 350,000 Hungarian nationals living abroad. Emigrants from Hungary are overwhelmingly young people: 25% of them are under 30 and 63% are under 40 years. Emigrants have a higher level of education than the national average. The majority of recent emigrants live in European Union (EU) countries,

<sup>1</sup>The obligation concerns only those who emigrate permanently; those who plan to work abroad only temporarily are not obliged to register. In practice, however, many emigrants who plan to work abroad temporarily end up staying in a foreign country for several years or even decades.

<sup>2</sup>"A SEEMIG – Managing Migration in South East Europe transznacionális együttműködési projekt „ Helyzetkép a magyarországi elvándorlásról” című sajtótájékoztatójának sajtóanyaga.” 2014. [https://www.ksh.hu/docs/szolgaltatasok/sajtoszoba/seemig\\_sajto\\_reszletes.pdf](https://www.ksh.hu/docs/szolgaltatasok/sajtoszoba/seemig_sajto_reszletes.pdf) Accessed 6 April 2018.

with the top three host countries being Germany, the United Kingdom (UK) and Austria.<sup>3</sup>

Since 2011, Hungarians without permanent residency in Hungary have been eligible to apply for Hungarian citizenship. This means that members of the Hungarian minority communities in the neighbouring countries have been able to obtain Hungarian nationality.<sup>4</sup> To do so, they must prove former legal ties to Hungary (at least one of the applicant's ancestors must have been, at some point, a Hungarian citizen) and familiarity with the Hungarian language. Since 2011, roughly one million people have obtained Hungarian citizenship, most of them from the neighbouring countries.<sup>5</sup> Thus, programmes and policies for residents abroad need to be interpreted within this enlarged context, as the target group of these policies can include recent emigrants, members of the Hungarian minorities in the neighbouring countries, as well as descendants of emigrants who had their Hungarian citizenship verified (e.g., second, third or further generations of Hungarian emigrants who left the country after World War II or the 1956 revolution).

### 14.2.2 *Diaspora Infrastructure*

In Hungary, there is no authority exclusively dedicated to emigration or emigrants' affairs, although the Ministry of Foreign Affairs and Trade is responsible for engaging with nationals abroad. More specifically, the Department of Consular and Citizenship Issues (*Konzuli és Állampolgársági Főosztály*) within the ministry offers consular protection services to nationals abroad and administrates Hungary's consular network. Hungary has 115 consulates and 244 honorary consuls around the world. As a main rule, consulates are to be found at the places where the diplomatic missions (embassies) of Hungary are located. However, there are special cases when additional consular missions are established: (1) if the geographical distances of the state accounts for multiple consulates (e.g., United States of America (USA) or Brazil); (2) if nationals travel to places in the host country that are far from the capital (e.g., Turkey or Spain) and; (3) if a considerable number of Hungarians live in a concentrated area of the host state (e.g., Romania, Slovakia or Serbia) (Symmons 2010).

Mobile consular services also exist, although the legal framework regulating them is not public. From personal communication with consular employees, it can be assumed that a state secretary-level decree provides the legal background for

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<sup>3</sup> See footnote 2.

<sup>4</sup> See Section 4 Subsection (3) of the law on Hungarian citizenship: [http://eudo-citizenship.eu/National\\_DB/docs/HUN%20Act%20LV%20of%201993%20\(as%20of%20Jan%202009,%20English\).pdf](http://eudo-citizenship.eu/National_DB/docs/HUN%20Act%20LV%20of%201993%20(as%20of%20Jan%202009,%20English).pdf)

<sup>5</sup> *Új magyar állampolgárok - Változások az egyszerűsített honosítási eljárás bevezetése után* (2017). *Központi Statisztikai Hivatal*. <http://www.ksh.hu/docs/hun/xftp/idoszaki/pdf/ujmagyarallampolgarok.pdf>. Accessed 26 February 2019.

such services. In practice, mobile consular services are to be found occasionally in countries with a large Hungarian population (neighbouring countries, USA, Canada, Australia), and the focus of these services is to assist in citizenship applications. Thus, these services are primarily helpful for Hungarians abroad without Hungarian citizenship, and not for emigrant nationals.

The State Secretariat for Hungarian Communities Abroad (*Nemzetpolitikai Államtitkárság*) within the Prime Minister's Office is in charge with engaging with Hungarians abroad. It coordinates the relations between Hungarian authorities and Hungarian communities abroad and manages the support that the Hungarian state grants for Hungarian communities abroad. In this case, 'Hungarians abroad' (*külföldi magyarok*, which translates as 'Hungarians in the external homeland') refer to Hungarian minority communities in the neighbouring countries, and established older Hungarian diaspora groups in the West, regardless of whether or not the members of these communities have Hungarian citizenship. The concept of Hungarians abroad is included in Hungary's Constitution. Article D of the Fundamental Law states that "Hungary shall bear responsibility for the fate of Hungarians living beyond its borders, shall facilitate the survival and development of their communities, shall support their efforts to preserve their Hungarian identity, the effective use of their individual and collective rights, the establishment of their community self-governments, and their prosperity in their native lands, and shall promote their cooperation with each other and with Hungary".<sup>6</sup> The State Secretariat does not deal extensively with recent emigrants' affairs; the only exemption is the increasing support of Hungarian Sunday schools in the newly emerging Hungarian communities in Western Europe and other places.

There is no consultative body for nationals living abroad. However, there are several consultation bodies for representatives of Hungarians living abroad who are not necessarily citizens. First, the Hungarian Standing Conference (*Magyar Állandó Értekezlet*) is the consultative forum for Hungarians abroad (primarily those living in neighbouring countries) and the representatives of the Hungarian Parliament and Government. The participants of the conference are the political representatives of Hungarians abroad (national, and/or provincial level). In the case of the Western Hungarian diaspora where there are no ethnic Hungarian parties, the major cultural and civil organisations are invited. Second, the Hungarian Diaspora Council (*Magyar Diaszpóra Tanács*) was created with the aim to provide a consultative forum for representatives of the Western Hungarian diaspora and the Hungarian Government. It is very similar to the Hungarian Standing Conference, although it serves as the consultation body for the Western Hungarian diaspora and the Hungarian Government. Third, the Forum of the Hungarian Representatives in the Carpathian Basin (*Kárpát-medencei Magyar Képviselek Fóruma*), created in 2004, originally substituted for the Hungarian Standing Conference in the years when the latter was not convened for political reasons. It is the Hungarian Parliament's

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<sup>6</sup>The Fundamental Law of Hungary. <http://www.kormany.hu/download/e/02/00000/The%20New%20Fundamental%20Law%20of%20Hungary.pdf>. Accessed 9 October 2018.

consultative forum with elected national, provincial or county-level representatives of Hungarians abroad (Kántor 2013). None of these consultation bodies have a binding relation with the state. The issues raised at these fora should be regarded as guidelines in the Parliament's and the Government's decision making in areas concerning Hungarians abroad. However, the Hungarian state is not legally obliged to consult these bodies.

### 14.2.3 Key Engagement Policies

Although recent emigration has been receiving great attention in the public sphere, Hungarian policy makers have not really addressed the post-2008 emigration trends from the country. On the other hand, Hungarian minority communities abroad and established diaspora communities represent a pivotal concern for the current administration.

Generally speaking, the state's responsibility towards nationals abroad is regulated by the Act XLVI of 2001 on Consular Protection (2001. évi XLVI. törvény a konzuli védelemről) and the implementing ministerial decree on the detailed rules on consular protection (17/2001. (XI. 15.) KÜM rendelet a konzuli védelem részletes szabályairól). The legal framework does not differentiate between nationals temporarily or permanently residing abroad. The law on consular protection refers to the consul's responsibility to help Hungarian nationals abroad in danger returning to Hungary. The right to consular protection is a constitutional right of all citizens. The consul helps and supports the repatriation process of a citizen that is in trouble by providing a new passport if needed; provides advice for the return journey; provides assistance to secure the amount needed for the return journey and provides a consular loan to facilitate prompt return journey if the citizen is in grave financial situation. Consulates can provide consular loans to nationals abroad only in cases of emergency. The Hungarian legal framework does not differentiate between the reasons of when repatriation is needed. Although by default the consular loan has to be repaid, exceptions can be made in exceptional cases, due to the social-financial situation of the citizen concerned.<sup>7</sup> If the loan is not repaid by the specified deadline, the consulate turns to the tax authority to collect the loan in form of tax. The Minister of Foreign Affairs needs to give consent to provide a loan that exceeds 200 Euros. The policy applies for nationals abroad, regardless of their state of residence. In case of natural disasters, war or armed conflict, consulates take measures to inform and inquire about Hungarian citizens affected and continuously evaluate the situation. The website of the Hungarian Ministry for Foreign Affairs and Trade offers a general overview on the information about consular services and consular protection. Another source of information for Hungarians abroad is the site of the Hungarians Abroad (*Külhoni Magyarok*), although this page is not dedicated to

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<sup>7</sup>This is a discretionary decision of the consulate, the law does not define the criteria.

recent emigrants but rather to Hungarian minorities abroad and established Hungarian diaspora communities. The website is a comprehensive information site about news regarding Hungarians abroad, diaspora organisations and projects and funds available for Hungarian organisations abroad.

Voting from abroad is potentially the most relevant right for nationals residing abroad. The conditions for exercising this right depend on the individual's residency in Hungary. Two types of voting from abroad exist because of the above-mentioned nationality law that allows Hungarians abroad to obtain Hungarian citizenship without permanent residence in Hungary. In the first case, if the citizen abroad has a permanent Hungarian address,—which is the case for those recent emigrants who did not register their emigration with Hungarian authorities—he/she is included in the National Electoral Register, and hence allowed to vote at every type of elections (national, local, or European Parliament elections held in Hungary). Although officially all citizens are obliged to de-register when they emigrate from Hungary, in practice, most of them do not. The most likely reason behind that is that they simply do not know for how long they will stay abroad, and therefore do not want to terminate their “ties” (residency, health insurance, etc.) in Hungary. If a citizen wants to cast their vote abroad, he/she must submit a claim to be included in the Foreign Representation Electoral Register (*Külképviseleti névjegyzék*), at least 8 days before the elections. At the national elections, citizens can cast two votes: one for a party list and one for the electoral district's representative. Citizens living abroad can vote in person at Hungary's diplomatic missions, and they can cast both their party list and individual candidate votes.

In the second case, if a citizen does not have residency in Hungary (mostly Hungarians living in neighbouring countries who became Hungarian citizens with the preferential naturalization process after 2010, but also emigrants who de-registered when they emigrated), he/she must file a claim to be enrolled in the National Electoral Register, at least 15 days before the elections. As they do not have a permanent address in Hungary, they cannot cast a vote for an individual candidate (who technically represents the electoral district where their voters reside). For this reason, citizens without residency in Hungary, unlike citizens with residency in Hungary, have only one vote, which they cast on a party list. Furthermore, whereas citizens without residency in Hungary can vote by mail or in person at Hungary's diplomatic missions, nationals abroad who have residency in Hungary can only vote in person at Hungary's diplomatic missions.

Education for nationals abroad is not organised through a national strategy or policy. It is rather primarily provided by diaspora organisations, usually in the form of Sunday schools or through other diaspora institutions. Since 2018, Sunday schools in the diaspora have been eligible to apply for financial help from the Bethlen Gábor Fund (*Bethlen Gábor Alapkezelő*), which is the public fund in charge of providing financial support for Hungarian communities abroad. In certain countries, Hungarian cultural institutes also offer Hungarian language courses. Note, however, that these language services are not exclusively offered for nationals residing abroad, but for diaspora members in general, and for other nationals interested in learning the Hungarian language. Moreover, Hungarian schools in the

neighbouring countries (i.e., not emigrant, but autochthonous minority communities) also receive financial support from the Hungarian Government.

Other engagement policies mainly focus on the diaspora's cultural life and identity, and include support for diaspora organisations and cultural revitalisation projects. All diaspora institutions and organisations are allowed to apply for financial help from the Bethlen Gábor Fund. The funds can be used for the creation, development and maintenance of such organisations. All of the available funds and grants are listed on the website of the Bethlen Gábor Fund. Note, however, that the grant and fund applications do not require the applicant to be a citizen of Hungary as they are open to all Hungarians living abroad. Furthermore, Hungary offers a scholarship (*Kőrösi Csoma Sándor Ösztöndíj*) in the framework of which young Hungarians travel to diaspora communities to help out in their work for 6–9 months. The tasks of the scholarship recipients include language teaching, folk tradition instructions and community life organisations. Another diaspora project (the Mikes Kelemen Program) focuses on the physical heritage of Hungarian diaspora groups. The programme offers a scholarship for Hungarian librarian and archival experts and finances their trip to overseas Hungarian communities to collect and process unused personal collections (books, magazines, other written materials) that enrich the cultural heritage of Hungarians worldwide. Hungary also offers various scholarships for young Hungarians abroad to study in Hungary, as well as birthright-type programmes (Pogonyi 2013). Young Hungarians born and raised in the diaspora can study the Hungarian language in Budapest with a scholarship offered by the Balassi Institute, and there are short heritage trips available for young people of Hungarian ancestry offered by the ReConnect Hungary project<sup>8</sup> and the *Rákóczi Szövetség*.<sup>9</sup> Citizenship is usually not an eligibility criterion to participate in these projects.

Currently, there is no program to facilitate return migration. However, such a program called “Come home, young people!” (*Gyere haza, fiatal!*) operated for only one (pilot) year between 2015 and 2016. It targeted Hungarian emigrants in England. Applicants could apply for travel and housing costs reimbursements.

### 14.3 Diaspora Policies and Social Protection in Hungary

Because its welfare system is primarily residence-based, Hungary does not offer a comprehensive social policy for nationals abroad. Many of the social allowances in Hungary, such as invalidity benefits or unemployment benefits, are handled by the local government or district offices. Therefore, nationals residing abroad are not entitled to apply for such benefits. The social benefits that are available for nationals residing abroad include pensions, family-related benefits, and, to a certain extent, healthcare. The authority that is in charge of social allowances is the Ministry of

<sup>8</sup> See: <http://reconnecthungary.org/>. Accessed 06 April 2020.

<sup>9</sup> See: <http://archiv.rakocziszovetseg.org/en/diaszporaprogram/home>. Accessed 06 April 2020.

Human Capacities (*Emberi Erőforrások Minisztériuma*). Within this Ministry, there are three State Secretariats responsible for social policies: The State Secretariat for Family and Youth Issues (*Család- és ifjúságügyért Felelős Államtitkárság*), the State Secretariat for Healthcare (*Egészségügyért Felelős Államtitkárság*), and the State Secretariat for Social Issues (*Szociális Ügyekért Felelős Államtitkárság*).

In the five social policy areas of interest for this book (unemployment, healthcare, pensions, family-related benefits, economic hardship), consulates may indirectly help nationals abroad to access these social benefits offered by the host country. The legal framework vaguely refers to the consulate's responsibility to gather information in the host country and to provide information to nationals abroad. In practice, based on the information available on the websites of the consulates in the top five host countries for Hungarian nationals (Germany, USA, UK, Canada and Austria), consulates offer information about the host country's social allowances to a varying extent.

### ***14.3.1 Unemployment***

As indicated above, most social benefits in Hungary are handled by local governments, and thus access to them requires residency in Hungary. This rule also applies for unemployment benefits that are available for residents only. According to the EU legislation, however, Hungarian nationals who move abroad in search for work and are otherwise entitled to unemployment benefits in Hungary, can continue receiving these benefits from Hungary for 3–6 months after moving abroad. Beyond the EU framework, there is no specific policy to assist Hungarians residing abroad to access Hungarian unemployment benefits, and consulates have no outlined role in facilitating or assisting Hungarians in claiming such benefits. The mission of consulates is limited to the provision of information. They may assist nationals in providing information and advice about the host country authorities, available social benefits in the host country, and the regulations on foreigners' employment in the host country.

### ***14.3.2 Health Care***

The legal framework on healthcare eligibility is provided by the 1997 Act LXXXIII on Health Insurance Services (*1997. évi LXXXIII. törvény a kötelező egészségbiztosítás ellátásairól*). By default, individuals are eligible for healthcare services in the state where they are insured. In practice, two cases have to be distinguished, depending on whether the national abroad terminates or not his/her residency in Hungary.

In the first case, Hungarian residents living abroad that have health insurance in their host countries do not have to pay for health insurance in Hungary if the host country falls under Regulation (EC) No 883/2004 on the coordination of social



security systems or under bilateral social security agreements. If a Hungarian national becomes insured in the host country, he/she has to report that to the Hungarian National Tax and Customs Administration within 15 days, and then their obligation to pay health insurance tax in Hungary ceases. In such cases, non-resident nationals are eligible to basic healthcare service in Hungary via their European Health Insurance Card. However, if a national fails to report his/her residency and insurance status abroad to the Hungarian authorities, they will be treated in Hungary as citizens who are obliged to pay the Hungarian health insurance. Those who fail to do so can be fined. If a Hungarian national resides in a host country that did not enter into a bilateral social security agreement with Hungary, that national is obliged to pay their healthcare tax in Hungary and thus keeps his/her insured status, regardless of the fact that he/she is insured in another country, and he/she is entitled to health care services when visiting Hungary. For instance, this is the case with the USA; as Hungary does not have a bilateral social security agreement with the USA, those Hungarian nationals who have not terminated their residency in Hungary and are living in the USA, are obliged to pay health insurance in both countries.

In the second case, if the national abroad has terminated his/her residency in Hungary, he/she does not pay health insurance in Hungary and is not insured in the home country.

In addition to the general health insurance, there are two other types of health benefits that could be relevant for nationals living abroad: the rehabilitation benefit (*rehabilitációs ellátás*) and the disability benefit (*rokkantsági ellátás*). Both benefits are applicable for persons whose working capacity is assessed at 60% or less, and who have or have had health insurance in Hungary (for at least 1095 days within 5 years, 2555 days within 10 years or 3650 days within 15 years before submitting the claim). People who can be rehabilitated are eligible for the rehabilitation benefit for the period of the rehabilitation process, up to 3 years. People with changed working capacity who cannot be rehabilitated or who reach retirement age within 5 years are eligible for the disability benefit. The amount of the benefits depends on the state of health, and they vary between 35% and 70% of the average monthly income.<sup>10</sup> Nationals living abroad can claim the rehabilitation or disability benefit if they are eligible according to the conditions defined by the Act CXCI of 2011 on the amendment of acts on benefits for persons with changed working capacity (*2011. évi CXCI. törvény a megváltozott munkaképességű személyek ellátásairól és egyes törvények módosításáról*), Regulation (EC) No 883/2004 on the coordination of social security systems or by other bilateral social security agreements. The claims submitted by nationals living abroad are handled exclusively by the District 3 Office of the Government Office of the Capital City Budapest.

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<sup>10</sup>Your social security rights in Hungary (2018). European Commission - Directorate-General for Employment, Social Affairs and Inclusion. <https://ec.europa.eu/social/BlobServlet?docId=13766&langId=en>. Accessed 26 February 2019.

### 14.3.3 Pensions

The main legal framework for pensions is provided by the Act LXXXI of 1997 on social security pension benefits and its implementing decree (1997. évi LXXXI. törvény a társadalombiztosítási nyugellátásról). The home country authority that is in charge of state pensions (including international pension issues) is the Central Administration of National Pension Insurance (*Országos Nyugdíjbiztosítási Főigazgatóság*). The retirement age in Hungary is 65 (62 prior to 2010). Partial pension is paid after 15 active years, and full pension after 20 years of contribution. A non-contributory old-age allowance is granted to those who do not qualify for the minimum contributory years (Illés and Gellér-Lukács 2017).

Since 2013, nationals abroad can receive their pension benefits in different ways. They can authorise a legal representative who is a resident in Hungary to receive the benefit on the beneficiary's behalf. The authorized representative can receive the pension via postal delivery or bank transfer to a bank account managed by a Hungarian service provider. The second possibility is for the national abroad to open a bank account in Hungary or in an EU or European Economic Area (EEA) country and receive the pension on that bank account. Opening a bank account via mail (i.e., without traveling to Hungary) is available with one bank service provider, *Erste Bank Hungary Zrt*. The third possibility applies for Hungarian nationals who reside in a country with which Hungary has concluded a bilateral social security agreement (e.g., USA, Canada, Australia, India). In this case, they can receive the pension via bank transfer to a bank account in the host country, although transfer fees are applicable in this case. Payment via direct postal delivery is not possible for nationals living abroad. If the national's pension benefit is under the Hungarian old-age pension minimum (approx. 91 Euro/month in 2018), payment on a quarterly, bi-annual or annual basis posterior is also possible.<sup>11</sup>

Nationals living and receiving Hungarian pensions abroad need to present a yearly life certificate to the Central Administration of National Pension Insurance. This life certificate needs to be signed by the non-resident national and certified by the consulate. Beyond that, consulates are not involved in the process of state pension collection abroad. Consulates may assist nationals abroad in providing information about the regulations on pension collection, but there is no explicit obligation for them to do so. Similarly, consulates can provide information and advice about host country authorities, the available social benefits and regulations on non-nationals' social rights in the host country. Some of the Hungarian consulates in the top five host countries for Hungarian emigrants, including the London-based and Toronto-based consulates, provide information on their website about the host country's pension system.

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<sup>11</sup> Pension Payment Abroad – *Nyugdíjbiztosítás*. <https://nyugdijbiztositas.tcs.allamkinestar.gov.hu/en/international-pension-transaction/brochure-on-the-payment-of-benefit-for-beneficiaries-living-abroad.html>. Accessed 9 April 2018

### 14.3.4 Family-Related Benefits

Consulates provide services relating to new citizens' births abroad. The legal framework for such services is provided by the Act XLVI. of 2011 on Consular Protection (*2001. évi XLVI. törvény a konzuli védelemről*), and the Act I. of 2010 on birth registration process (*2010. évi I. törvény az anyakönyvi eljárásról*). Nationals residing abroad can initiate their children's birth registration at all Hungarian consulates. The registration is free of charge and the consulate is equipped to issue birth certificates. Similarly to birth registrations, consulates are equipped to register death and marriages (free of charge), and divorces (for consular fees) that occur in the host country.<sup>12</sup>

Since January 2018, the availability of two kinds of family benefits has been extended to nationals residing abroad: the maternity benefit (birth grant) and the life start benefit (baby bond).<sup>13</sup> Both can be applied for at all consulates or electronically. Some consulates provide information about family benefits eligibility for nationals residing abroad. The birth grant is a one-time payment of 64,125 HUF per child (approx. 205 euros). The life start benefit includes a one-time payment of 42,500 HUF (approx. 135 euros) paid by the Hungarian State Treasury to the newborn's account, and it is yearly increased with the inflation rate until the child is 18 years old. Parents of children born after June 30, 2017 are eligible for the benefits, provided that the baby has a Hungarian birth certificate. The consulates forward the applications to the Hungarian State Treasury, which accepts and processes the applications and issues the benefits. Besides the family benefits offered by Hungary that are available to nationals abroad, consulates can assist Hungarian nationals in providing information and advice about host country authorities and the available social benefits, including family benefits.

In February 2019, the Hungarian Government announced a new type of family-related benefit under the "Family Protection Action Plan". The details that have been announced so far suggest that women under 40 will be eligible to acquire a special low-interest governmental loan up to 10 million HUF. The repayment will be suspended after the birth of the first child, it will be partially cancelled after the birth of a second child, and will be completely cancelled after the birth of the third child. At the time of writing, the conditions of the benefit are still being discussed and it is therefore still uncertain whether or not this benefit will be made available to nationals living abroad.<sup>14</sup>

<sup>12</sup>*Konzuli Szolgálat*. <http://konzuliszolgalat.kormany.hu/ugyintezes-konzulnal>. Accessed 9 April 2018.

<sup>13</sup>*Elindult a határon túli családokat támogató Köldökzsinór program*. (2018). *Kormányzat*. <http://www.kormany.hu/hu/emberi-eroforrasok-miniszteriuma/csalad-es-ifjusagugyert-felelos-allamtitkarsag/hirek/elindult-a-hataron-tuli-csaladokat-tamogato-koldokzsinor-program>. Accessed 9 April 2018.

<sup>14</sup>The loan was launched for application in July 2019. Eventually, the defined terms for eligibility practically exclude nationals living abroad.

### 14.3.5 *Economic Hardship*

As discussed above, most social benefits in Hungary are handled by local governments, and thus access to them requires residency in Hungary. There is no Hungarian policy according to which Hungarian nationals residing abroad can access the guaranteed minimum resources scheme. Hungarians residing abroad cannot claim any Hungarian income-based benefits. There is no specific policy to assist Hungarians residing abroad access the welfare benefits of the host country in economic hardship, and consulates have no outlined role in facilitating or assisting Hungarians in claiming such benefits either. Beyond the consular loans discussed above, consulates may assist nationals in providing information and advice about the host country authorities and the available social benefits—including guaranteed minimum income schemes—in the host country.

Since 2017, an *ad hoc* type of social benefit has been provided by Hungary to certain individuals living in Transcarpathia, Ukraine, due to the economic hardship caused by the war in the country. Hungary offers financial support for individuals who work in the public sector and provide their service in the Hungarian language. Doctors and other health-care workers, teachers, journalists, librarians, and artists who work in institutions where the Hungarian language is used and who provide their services in Hungarian are entitled to apply for the social benefit. Thus, the benefit is available for everybody who provides their services in Hungarian, irrespective of their ethnicity and/or citizenship. The benefit is provided by the Budapest-based *Bethlen Gábor Alapkezelő Zrt*, the fund that handles all financial support for the kin minority and diaspora. The benefit can be applied for once or twice a year, depending on the applicant's work.

## 14.4 Conclusions

Hungary is the kin-state of large Hungarian minorities in its neighbouring countries, and the home country of a large, established Hungarian diaspora overseas and in Western Europe that came into being with the great emigration waves of the twentieth century. In addition to these older Hungarian communities abroad, Hungary has been an emigrant sending state in the last decades, with growing intensity over the past 10 years.

The current Hungarian Government pursues a nationalistic agenda in many policy areas, and emphasizes national survival and national interest in its discourse. The Government is known for its traditionally close relationship with Hungarian minority communities abroad and with older emigrant (diaspora) communities. Thus, the focus of its diaspora policy is primarily on these communities; it aims to engage these groups symbolically, culturally, and, through the introduction of dual citizenship, politically as well. However, the current Government has not really addressed the needs and interests of more recent emigrant communities, even though emigration from the country is an increasingly perceivable phenomenon.

This chapter clearly shows that policies to engage Hungarians abroad—those living in neighbouring countries and the established older diaspora (post-World War II and 1956 emigrants and their descendants), who are not necessarily Hungarian nationals—are more advanced and elaborated than engagement policies for recent emigrant nationals. Most of the engagement practices focus on cultural and identity strengthening issues, and not so much on the social protection of citizens abroad. As many of the social allowances in Hungary are handled by the local government or district offices, nationals residing abroad are not entitled to apply for such benefits.

The general policy to engage with nationals abroad is provided in the framework of consular services. Hungary has a dense consular network worldwide that is supplemented with honorary consuls. Consulates provide general consular help for nationals in need. They also provide registration services for nationals abroad (birth, marriage, divorce certificates), as well as identity documents. Consulates may provide information and advice for nationals abroad about the social rights offered by the host country.

In the field of social rights, there are three areas that are relevant for nationals abroad: healthcare, pensions and family benefits. There is no guaranteed minimal income or any kind of cash benefit available for nationals abroad. In the area of healthcare, certain benefits are available for nationals abroad who live in an EU country. Another distinctive case is if the national living abroad has not terminated his/her Hungarian residency, and thus he/she continues to pay health care tax and remains insured in Hungary. Pensions can be collected abroad rather easily in three different ways, and the process is clearly regulated in each case.

The newest social allowances that have been made available for nationals abroad in 2018 are the maternity benefit and the life start benefit (baby bond). Nationals abroad can apply for these one-time payments at all consulates. The introduction of these family benefits can be regarded as ground-breaking for two reasons. First, the current Hungarian Government has been very actively supporting Hungarian minority communities in the neighbouring countries and the old diaspora communities in the West, but has rather neglected newer, post-2008 emigrants. Second, the engagement policies have been focusing on cultural revitalization and on identity strengthening, but not so much on social protection. The introduction of the maternity benefit and the baby bond, and the fact that they are available for newer emigrant families as well, could indicate that the engagement practices of the Hungarian Government might slightly change in the future, and that the needs of newer emigrants will be taken into consideration more seriously. However, the maternity benefit and the baby bond policies are so recent that it is rather hard to assess whether they are signs of a new engagement direction, or just a one-time occurrence in extending social benefits for nationals abroad.

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# Chapter 15

## Diaspora Policies, Consular Services and Social Protection for Irish Citizens Abroad



Mary J. Hickman

### 15.1 Introduction

This chapter will show that Irish policies for citizens abroad are characterized by an intention to maximise the usefulness of the diaspora for Irish national interests and by a commitment to address the welfare, cultural and other needs of the Irish abroad and strengthen links between Ireland and its diaspora. The chapter commences with an outline of some demographic characteristics of the Irish diaspora and an account of the main structures and policies of the Irish Government's engagement with its diaspora. It continues with a more detailed examination of the social protection policies that include the Irish abroad and indicates the main principles that underpin this aspect of engagement with the diaspora. The chapter concludes by summarising some of the ways in which Irish diaspora policies are changing.

### 15.2 Diaspora Characteristics and Home Country Engagement

#### 15.2.1 *The Irish Diaspora and Its Relations with the Homeland*

Irish migration in the nineteenth century was one of the most significant movements of population in modern European history as regards both the total number of people involved and the proportion of the population migrating. In 1841, before the

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Great Famine, the population of the area now known as (Republic of) Ireland was 6.5 million. By 1961, the total was down to 2.8 million, and in 2018 the population had only climbed back to 4.86 million.<sup>1</sup> Between 1801 and 1921, approximately 8 million people left the island of Ireland. During the past century, the outflow has been in excess of 1.5 million. For example, in the period 1949–1989, 800,000 people left the Republic of Ireland. The return to net outward migration in 2009 represented the beginning of the third period of heavy Irish emigration since 1945 (see Walter et al. 2002; Glyn et al. 2013).

Consequently, at any one time a significant proportion of people who were born in Ireland are living abroad (17.5% according to the OECD in 2014) and there are many millions of people across the globe of Irish descent. Many claim an Irish identity and down to the third generation (a grandparent born in Ireland) can claim Irish citizenship. According to the figures of the Department of Foreign Affairs and Trade, there are estimated to be 3.8 million citizens living outside Ireland, up to half live in Northern Ireland. The prime destinations for Irish migrants have been first, in the nineteenth century, the United States of America (USA), and then, in the twentieth century, the United Kingdom (UK), mainly England. In 2013, the United Nations estimated that there were 412,658 people born in the Republic living in the UK; and 143,500 in the USA. Since the 1950s, there has been a notable on-going movement to Australia, with young Irish people having easy access to short-term visas (77,513 in 2013). Other significant destinations include Canada, New Zealand and increasingly the rest of the European Union (EU), with Spain having the largest number (17,519 in 2013).

Until the last years of the twentieth century, Irish Governments were ambivalent at best about the Irish diaspora. There had been efforts to deal with emigration in the 1950s, with a Report of the Commission on Emigration.<sup>2</sup> In 1984, the DION committee, the forerunner of the Emigrant Support Programme (ESP), was established to assist emigrants in Britain whose welfare needs were acknowledged. Prior to this, the main institution supporting Irish emigrants in the top settlement destinations was the Catholic Church. However, after the out migration of the 1980s, many more secular organisations were established in the diaspora to support and advise Irish emigrants and their children.

### 15.2.2 *Diaspora Infrastructure*

Ireland has a network of 63 embassies, 10 consul generals, and a number of honorary consuls making up 80 representations all together. This is acknowledged to be moderate by international standards. In countries not covered, Ireland relies on

<sup>1</sup>Central Statistics Office (2018). Population and Migration Estimates. Dublin: Central Statistics Office. <http://www.cso.ie/en/releaseandpublications/er/pme/populationandmigrationestimate-sapril2018>. Accessed 27 April 2019.

<sup>2</sup>Commission on Emigration and other Population Problems (1955). *Report: Commission on Emigration and other Population Problems 1948–1954*. Dublin: Stationary Office.



arrangements with an Irish embassy in a neighbouring country. In 2018, it was announced that Ireland intended to open seven new missions, which will include four new embassies (Ukraine, Morocco, Philippines, Liberia) and three new consulates (Frankfurt, Los Angeles, Cardiff).

In 2014, Ireland appointed a Minister of State for the Diaspora for the first time. The role is located in the Department of Foreign Affairs and Trade (DFA). The main responsibility of the Minister is to communicate the views of the Irish abroad to the Government. The Minister chairs the Interdepartmental Committee on the Irish Abroad. The membership of this Committee comprises 17 Government departments plus five external stakeholders: Bord Bia; Enterprise Ireland; IDA Ireland; Science Foundation Ireland; Tourism Ireland. The Committee acts as a forum in which issues affecting Irish people abroad can be raised and Departments with responsibility for the relevant area can report back to the Committee on their work in resolving these. The Committee meets three times a year.

The Irish Abroad Unit, based in the DFA, manages and coordinates the Emigrants Support Programme (ESP) in partnership with Ireland's embassies and consulates abroad. The ESP funds projects that celebrate, maintain and strengthen links between Ireland and the Irish abroad and that address the diverse and evolving needs of Irish emigrants, especially the elderly, disadvantaged and vulnerable.

The Irish Government has established a number of fora in the past decade in order to consult the Irish diaspora: the Global Irish Economic Forum, the Global Irish Network and the Global Irish Civic Forum. All of these fora are organised and managed by the DFA. In 2009, the first Global Irish Economic Forum (GIEF) was held in Dublin and was attended by the Taoiseach (Prime Minister). Members of the Forum were invited by the DFA. There have been meetings of the Economic Forum every 2 years since then. This first meeting was held in the context of the 2008 financial crash and the onset of Ireland's terms of recovery set by the European Union. The Forum aimed to explore how the Irish at home and abroad could work together to contribute to Ireland's economic recovery; and to examine ways in which Ireland and its global community could develop a more strategic relationship with each other, particularly in the economic sector. The Irish Government viewed the first GIEF as a great success.<sup>3</sup>

The Global Irish Network (GIN) was established in 2010 as a direct result of recommendations at the first GIEF. The Network now comprises over 350 Irish and Irish connected business people based in 40 countries and has three objectives: to provide a platform to assist the Government and state agencies to promote Ireland's economic, cultural and tourism messages in key markets; to provide a forum through which successful Irish business and cultural figures abroad can interact with each other, exchange views and be kept informed of key developments in Government policy; and to provide a forum through which members can put forward proposals and implement practical initiatives. It is members of this Network who are invited to meetings of the GIEF.

The members of the GIN are selected primarily on the recommendation of Irish embassies and consulates, and its members and Advisory Group are appointed by

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<sup>3</sup> See: <https://global.irish/2009Forum.aspx>. Accessed 27 April 2019.

the Minister for Foreign Affairs and Trade. The Advisory Group was formed to review progress on GIEF outcomes, coordinate the work programme of the Network and work with ambassadors in keeping the wider Network informed of developments. Nineteen members of the Network accepted the Tánaiste's invitation to join the Advisory Group and its first meeting was in 2012.

In 2015, the first Global Irish Civic Forum (GICF) was also held in Dublin 'to discuss the challenges facing the Irish Abroad' and bring together representatives of over 140 organisations working with the Irish diaspora globally. The Minister for the Diaspora and the Minister for Foreign Affairs and Trade also attended the event, together with 175 delegates from 17 countries. Many of the organisations attending the Forum receive funding through the ESP (though specifically prohibited from utilising that grant money to fund attendance at the GICF). The programme was devised by the DFA not without controversy, e.g. omitting a session on voting rights for citizens abroad. A further GICF was held in 2017 when this omission was rectified.

There has been no direct representation for the Irish abroad in the two houses of the Irish Parliament (the Dail and the Seanad) until recently. In 2016, Billy Lawless, an Irish-born resident of Chicago, was nominated by the Taoiseach as a member of the Seanad (the Senate). This was the first time an emigrant had become a member of this chamber. Also in 2016, Senator Mark Daly was appointed as Senate Spokesperson on Foreign Affairs and Irish Overseas and the Diaspora. Both have been active taking up emigrant issues, in particular on voting rights for citizens abroad.

### 15.2.3 *Key Engagement Policies*

In 1999, as part of the settlement of the Good Friday Agreement and after a referendum in Ireland, Article 2 of the Irish Constitution was changed. This included a statement that the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage. This change had the effect of directing focus on the diaspora. In 2001, the Irish Government set up a Task Force on Policy Regarding Emigrants that was to report to the Minister of Foreign Affairs (the instigation for this came largely from the Catholic Church and the trade union movement). The recommendations of the Task Force Report<sup>4</sup> covered pre-departure services, support for the Irish abroad and for returning emigrants. The significance of the Task Force Report is that it named emigrants and their descendants as 'the Irish Abroad' and identified them as a constituency whose welfare, cultural and other integration needs, should be considered, and in some cases responded to by the Irish Government (Gray 2006). The recommendations of the

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<sup>4</sup>Task Force on Policy Regarding Emigrants (2002). *Ireland and the Irish Abroad*. Dublin: Department of Foreign Affairs.

Task Force Report led to the establishment of the Irish Abroad Unit in the Department of Foreign Affairs in 2004 and to a significant increase in funds available to assist vulnerable Irish people abroad (from 2004 onwards, these funds were available globally, not just in Britain) through the ESP.

With this increased focus on the diaspora, other Irish institutions (universities, Tourism Ireland) and the Government developed various initiatives, one being *The Gathering* in 2013. *The Gathering* aimed to mobilize the Irish diaspora to return to Ireland during 2013. It was a Government supported initiative from Fáilte Ireland (National Tourism Development Authority) and Tourism Ireland. It relied on grass-roots events organized by individuals, communities and NGOs for which funding was available. The Irish ambassador to Berlin (at the time, Daniel Mulhall), speaking about soft power and national branding, described *The Gathering* as an example of ‘using our international diaspora to benefit Ireland at a time of economic difficulty’. This was a result of the Government coming to realise as it sought to ‘develop our national brand’, that ‘our Irish communities abroad are a very significant source of influence and impact’.<sup>5</sup>

Unsurprisingly, a key aspect of diaspora policy for the Irish Government is supporting Irish business abroad. There are hundreds of Irish Business Networks across the globe, including the International Business Network based in London, Dublin, Belfast and New York. The Irish Government supports some of these networks through the ESP and by sending Ministers or embassy staff to promote events, holding receptions, providing secretariat assistance, inviting key guests and providing meetings spaces (Boyle and Kavanagh 2018, 71). Another key aspect of Irish diaspora engagement is promoting Irish culture. Through the ESP, the Government supports Irish language initiatives and Irish Studies courses. Culture Ireland, an Irish State Agency funded by the Department of Arts, Heritage and the Gaeltacht, operates funding programmes to support and promote Irish arts internationally.

In 2015, the Irish Government published for the first time a definitive version of its diaspora policy: *Global Irish. Ireland’s Diaspora Policy*.<sup>6</sup> The notion of ‘Global Irish’ invokes a powerful national imaginary visualised not as a small island of 6 million people located at the edge of Europe, but as a globally networked community of 6 million people in Ireland with over 1 million Irish born, 3 million citizens, and as many as 70 million people of Irish descent living overseas. *Global Irish* sets out the Government’s intention to consider that ‘the Irish at home and the Irish abroad are one community’ (p. 19).

The objectives of Ireland’s diaspora policy include fostering diaspora engagement in a way that those, who having left Ireland, are in need of support receive it

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<sup>5</sup>Mulhall, D. (2012). *Lecture to The Berlin International Economics Congress* 7 March 2012. Berlin: Institute for Cultural Democracy. <http://www.culturaldiplomacy.de/mediacenter/index.php?he-amb-dan-mulhall-ambassador-of-ireland-to-germany-berlin-march-7th-10th-2012>. Accessed 27 April 2019.

<sup>6</sup>Department of Foreign Affairs (2015). *Global Irish. Ireland’s Diaspora Policy*. Dublin: Department of Foreign Affairs.

and that those who are Irish or of Irish descent who wish to maintain a connection with Ireland or to each other are able to do so.

There has been criticism of Ireland's diaspora engagement policies (Gray 2006, 2012; Boyle et al. 2013; Boyle and Kavanagh 2018; Devlin Trew 2018). These include commenting on its overwhelming economic motivation as it seeks either to make money or cultural capital out of the Irish diaspora. Others criticize that the policy has done little to rectify the fact that Irish citizens become disenfranchised after being out of the country for over 18 months<sup>7</sup> (see Honohan 2011). The publication of *Global Irish* in 2015 was in part an answer to such criticisms, with its emphasis on the wide-ranging nature of Ireland's engagement with and support for its diaspora.

The Global Irish policy aims to facilitate a wide range of activities at local, national and international level designed to develop two-way diaspora engagement; and recognises that the policy will evolve to meet changing needs and times. All diaspora engagement by Ministries/agencies in Ireland is managed within the context of the objectives, policies and guidelines delineated in *Global Irish*. In the next section of the chapter, those activities concerned with social protection for the Irish diaspora are discussed.

### 15.3 Diaspora Policies and Social Protection in Ireland

Ireland has 80 embassies, consulates and honorary consulates around the world. Through these consulates, Ireland offers services to their citizens abroad, some of which encompass basic social protection. The gist of Irish substantive law on the issue is contained in the Diplomatic Relations and Immunities Act 1967 (which in its preamble makes it clear that this Act is implementing, inter alia, the two International Conventions concerning Diplomatic and Consular Relations). The Vienna Convention on Consular Relations (VCCR) was made part of Irish law (section 6 of the 1967 Act). Thus, relevant articles in the 1967 Convention, such as Article 7 dealing with exercise of consular functions in a third state, are part of Irish law. This law may be viewed as giving the basis for Irish nationals to claim diplomatic or consular assistance abroad, though officially Ireland does not provide statutory protection in this regard as a right, but rather as a matter of a policy under which consular protection is in practice never refused.

On the DFA website, there are details of Ireland's Consular Assistance Charter. It outlines clearly that consular interventions are limited to: offering advice and support in cases of family and other emergencies; offering linguistic and cultural support on who to contact and how things are done locally; issuing emergency travel documents; contacting a citizen's friends or family on their behalf; providing advice on health services and security issues in the host country. The Charter clarifies that

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<sup>7</sup>See also: [www.vica.ie](http://www.vica.ie). Accessed 27 April 2019.

Irish consulates cannot provide medical or legal advice, that they do not have a budget for medical, legal or other expenses, cannot influence the visa decisions of other countries and do not deal with commercial or insurance disputes.

Irish consulates do not fund the repatriation of a deceased person's body from abroad. They will help the family of the deceased liaise with the relevant authorities including police, coroners in the country where the death occurred and with the relevant authorities in Ireland especially in relation to funeral arrangements. In very exceptional circumstances where the health or security of an Irish citizen abroad is at risk, the Department of Foreign Affairs and Trade may agree to repatriate the person to Ireland. Repatriation in this instance is subject to strict conditions which are set out in each individual case (no guidelines available). The conditions include a written undertaking to repay all the expenses incurred, as well as a statutory fee for this service.

Citizens abroad seeking help or advice can also consult the Citizens Information Board,<sup>8</sup> i.e. the statutory body which supports the provision of information, advice and advocacy on a broad range of public and social services. The Board comes under the remit of the Department of Employment Affairs and Social Protection. It has a section on Leaving Ireland which includes, for example, information about citizens abroad entitlements to social security, both social security arrangements Ireland has with other countries and details of Irish social welfare payments that can be paid abroad. The Crosscare Migrant project<sup>9</sup> is a Dublin-based NGO providing information and advocacy support to Irish emigrants and people who have moved to Ireland (including returning migrants). It is partly funded by the Emigrant Support Programme (ESP). Crosscare is the social support agency of the Dublin Catholic Archdiocese. The migrant project provides information for citizens abroad, those thinking of leaving and those thinking of returning.

There are two main principles which govern the offering by the Irish Government of social protection to citizens abroad. First, that in Ireland, a Habitual Residency Condition governs the right to a variety of social assistance. Second, that Irish Government organizations abroad do not supply material assistance in the social protection areas examined. However, the Irish Government considers that it lives up to its commitments to the welfare of its citizens abroad by funding the ESP. Under this programme, hundreds of organizations are funded worldwide to support their activities in providing advice and material assistance to Irish people living outside the state.

The Habitual Residency Condition underpins a particular perception of an individual's right to social assistance in Ireland. The term 'habitually resident' (according to Citizens Information) is not defined in Irish law, but in practice means that one has a proven close link to Ireland and implies a degree of permanence. To be considered 'habitually resident' requires to have a legal right to reside in Ireland.

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<sup>8</sup>Citizens Information Board. [http://www.citizensinformation.ie/en/moving\\_country/moving\\_abroad/leaving\\_ireland/leaving\\_ireland\\_and\\_your\\_social\\_security\\_entitlements.html](http://www.citizensinformation.ie/en/moving_country/moving_abroad/leaving_ireland/leaving_ireland_and_your_social_security_entitlements.html). Accessed 27 April 2019.

<sup>9</sup>Crosscare Migrant Project. <http://www.migrantproject.ie/leaving-ireland>. Accessed 27 April 2019.

Five factors are examined to establish access to social assistance: length and continuity of residence in Ireland; length and purpose of absence from Ireland; nature and pattern of employment; an individual's main centre of interest; and future intentions to live in Ireland as it appears from the evidence.

For all social welfare payments in Ireland, an individual must satisfy the rules for each scheme to qualify. They must be habitually residents to qualify for the following payments: Back to Work Family Dividend; Blind Pension; Carer's Allowance; Child Benefit (partial exceptions, see below); Disability Allowance; Domiciliary Care Allowance; Guardian's Payment (non-contributory); Jobseeker's Allowance; One-Parent Family Payment; State Pension (non-contributory); Supplementary Welfare Allowance; Widow's, Widower's or Surviving Civil Partner's (non-contributory) Pension. Nationality is not a requirement to receive these benefits, being 'habitually resident' is a requirement.

Under EU law, in certain circumstances, the habitual residence condition does not have to be satisfied. This applies to Family Benefits (Back to Work Family Dividend, Child Benefit, Domiciliary Care Allowance, Guardian's Payment, non-contributory, Working Family Payment, and One-Parent Family Payment) and to Supplementary Welfare Allowance. This exception primarily applies to European Economic Area (EEA) and EU citizens regarded as migrant workers due to their engagement in genuine and effective employment in Ireland. Returning Irish migrants do not benefit from this exception. In order to satisfy the Habitual Residence Condition, they have to prove that they have made Ireland their home again. However, according to Department of Employment Affairs and Social Protection Operational Guidelines, a person who had previously been habitually resident in the state and who moved to live and work in another country and then resumes his/her long-term residence in the state, may be regarded as being habitually resident immediately on his/her return to Ireland (Crosscare Migrant Project).

The following social welfare payments can be paid abroad: Invalidity Pension; State Pension (contributory); Disablement Benefit; Guardian's Payment (contributory); Widow's, Widower's or Surviving Civil Partner's (contributory) Pension; Death Benefits under the Occupational Injury Benefit Scheme; and Bereavement Grant. If going abroad for a long period of time or permanently, an individual must notify the Department of Employment Affairs and Social Protection and will be asked to produce evidence of continuing to fulfil the qualifying conditions for the payment.

In the main, however, the Irish Government's social protection policy as regards the Irish diaspora involves offering support to Irish welfare, community and advocacy organizations which originate in the diaspora itself. This is central to the approach of the Emigration Support Programme (ESP), managed and administered by the Irish Abroad Unit in partnership with Ireland's embassies and consulates. The premise of the ESP is that it cannot replace social welfare supports in Irish citizens' countries of residence. Instead, working with civil society partners, it can help people access those services to which they are entitled. The ESP was established in 2004 and following the recommendations of the Task Force on Policy Regarding Emigrants, it was designed to extend social protection and welfare relief to vulnerable Irish citizens living abroad. The Government views the ESP as a tangible

expression of its commitment to strengthen the international Irish community and its bond with Ireland. In the period 2004–2018, grants totalling over €170 m have been dispensed through the ESP to over 530 organisations in 36 countries.

The programme funds projects that range from celebrating, maintaining and strengthening links between Ireland and the Global Irish to addressing the diverse and evolving needs of Irish emigrants (especially the elderly, disadvantaged and vulnerable) or facilitating access to statutory and voluntary services in the country of settlement. The ESP also supports strategic initiatives within its overall framework such as research about the emerging needs of Irish communities abroad and the development of new ways to communicate and connect with the increasingly diverse global Irish.<sup>10</sup>

Welfare is central to the ESP and this primarily explains why the highest proportion of the funds are allocated to organizations in Britain, where the largest number of Irish-born people reside outside Ireland (three-four times as many as reside in the United States, for example). In 2017, €5,318,687 in funds were allocated in Britain out of a budget of €11,676,521; €3,945,181 was awarded in grants to organizations in the United States. Funds were dispensed to organizations in 23 countries, the smallest allocation was €25,000 to Zimbabwe. In Britain, which has been the prime destination of Irish emigrants since the 1930s, many emigrants are ageing. Due to their previous occupations, they often live with a range of vulnerabilities from accommodation issues to social isolation to mental health issues. The provision of advice and support for the elderly is at the core of many grants which the ESP awards, for example, funding the organisation, administration and quality assurance of a network of volunteers to provide regular home visits to those unable to leave their homes.

The ESP operates with an online application process. It currently publicises that it is interested in funding applications that fulfil the objectives that include welfare, connectedness, intergenerational links and collaborative projects. Projects that reflect diversity within the Irish diaspora and Irish communities are also specifically encouraged. The criteria for awards is clearly set out on the Irish Abroad Unit's section of the DFA website as is the downloadable form. There is one annual deadline for receipt of applications, usually early in the year, and the application process opens about a month before this. The funding year runs from July 1st to 30th June.

### 15.3.1 Unemployment

As provided by EU legislation, an unemployed individual who receives unemployment benefits can leave the country to search for work in another EU Member State and continue to temporarily receive unemployment benefit. Beyond this, there are various information sources to assist Irish citizens seeking employment abroad.

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<sup>10</sup>Department of Foreign Affairs (2015). *Global Irish. Ireland's Diaspora Policy*. Dublin: Department of Foreign Affairs.

The emphasis is on helping citizens find work, rather than responding to the hardship of the state of unemployment. The Citizens Information website has a section on 'Moving abroad from Ireland' which gives directions for finding out information about the country an individual is moving to. Crosscare Migrant Project, which is partly funded by the ESP, gives advice about leaving Ireland on its website.

The ESP does not have employment or unemployment in the destination country as an explicit part of its mission. It partially funds some advice centres in the diaspora for Irish emigrants that would include advice about job opportunities both in the host country and in Ireland. However, as many of the emigrants needing support are elderly advice on employment is most likely to be included by some of the larger, more general advice and welfare organisations. An applicant organisation could make the case that this is a necessary part of providing support for the welfare of Irish emigrants abroad. Once a grant is received on this basis, it is monitored and 'in effect' forms a contract with the DFA. There is no difference between countries on this.

The ESP funds (usually partially) some of these general advice centres for Irish emigrants that include advice about job opportunities both in host country and in Ireland. For example, in the UK, the London Irish Centre provides advice on moving to London that includes advice on finding employment. In the USA, the Aisling Center in Yonkers, New York provides counseling in this area. As does the Irish Canadian Immigration Centre in Toronto, Canada.

### **15.3.2 Health Care**

On the Department of Foreign Affairs (DFA) website there is clear information that if sick or injured abroad, an Irish citizen can contact the consulate for advice on finding English-speaking medical help and assistance to contact relatives. If ill or had an accident, Irish consulates will inform family and friends, advise on local medical services, provide lists of English-speaking doctors, and liaise with local medical services. This information is also available on the Citizens Information website. In very exceptional circumstances where the health of an Irish citizen abroad is at risk and there is no way of dealing with the situation satisfactorily locally, the DFA may agree to repatriate the person to Ireland. This is done at the discretion of the Department and involves a written undertaking from the individual to repay all the expenses incurred, as well as a statutory fee for the service.

Under ESP funding, many of the organisations who receive grants include support for people with health issues, if only because so many are focused on the elderly Irish. The needs of the elderly are a specific concern of the ESP and this includes their physical and mental health. For example, in the UK, Leeds Irish Health & Homes deliver advice and help about health matters. In the USA, giving advice on health insurance is often what is needed, for example, the Emerald Isle Immigration



Centre in New York City gives such advice as part of their provision of social services.

Ireland has a Reciprocal Healthcare Agreement with Australia since 1997. The Agreement enables visitors from Ireland to Australia (including people with valid Working Holiday or Temporary Skilled Worker visas, these individuals form a majority of Irish migrants to Australia) to receive medically necessary treatment as inpatients or outpatients in Australian public hospitals. The equivalent care is provided in Ireland for visitors from Australia. Also the Irish Support Agency, based in Sydney and funded by the ESP, gives advice on mental health issues.

More generally, if an individual has qualified for an Invalidity Pension while living in Ireland, this pension is an example of a pension that can be paid while the claimant is living abroad (Disablement Benefit falls in the same category with some caveats). Invalidity Pension is also an example of a pension for which it is possible to combine an individual's insurance record in the destination country (if that country is in the EU or one with which Ireland has a bilateral social security agreement) with an individual's Irish PRSI (social insurance) contributions.

### ***15.3.3 Pensions***

The Citizens Information website gives information about claiming certain pensions while abroad. The Invalidity Pension, State Pension (contributory), Widow's, Widower's or Surviving Civil Partner's (contributory) Pension are all paid to qualifying individuals outside the state.

The Emigrant Support Programme (ESP) has no specific objective as regards pensions; but it is concerned about the 'diverse and evolving needs of Irish emigrants, especially the elderly' which can include pensions. Many of the organisations funded by the ESP are either specifically aimed at the elderly or have their welfare as one of their major goals, the ESP has consistently made this a priority. This includes in many instances giving advice about claiming a pension in Ireland and/or the country of residence.

In countries with which Ireland has reciprocal agreements, information is provided about an individual's prior pension contributions. For instance, the main purpose of the bilateral Social Security Agreements that Ireland signed with Australia and the United States is to protect the pension rights of people who have worked and paid reckonable social security contributions in the signing countries. Both Agreements do this by allowing social security contributions paid in one signing country to be counted towards qualifying for certain payments in the other country. There is a similar arrangement in place between Ireland and Canada, the Irish/Canadian Social Security Agreement.

### ***15.3.4 Family-Related Benefits***

A key aspect of Irish citizenship law is that if a child is born outside Ireland to a national born in Ireland, the child is automatically an Irish citizen and there is no need for an Irish birth certificate. The birth certificate in the country of birth suffices (for example, when applying for an Irish passport) and therefore Irish consulates are not involved in the process.

Family-related state benefits are payable for a limited time while a citizen is abroad, except for Child Benefit. Maternity Benefit is paid for a maximum of 6 weeks while a citizen is outside Ireland. Paternity Benefit is paid for a maximum of 2 weeks while abroad. Adoptive Benefit is available for up to 6 weeks while abroad. Child Benefit can be paid to volunteer development workers and members of the Irish Defence Forces or Irish Civil Service serving abroad. It can also be paid if one is working abroad for an Irish employer and paying Irish social insurance contributions (Citizens Information 2019).

The ESP has no specific mission of responding to the needs of families, it depends what NGOs in the diaspora present to them in their applications for ESP funding. It is possible to make a case for such funding under general criteria of the ESP. It is quite clear to applicants that these and other benefits are the type which an organisation can apply for a grant with which to provide advice and assistance. NGOs have leeway about what to make a case about for funding as long as it comes under the ESP's broad funding criteria which are clearly outlined on its website.

Many Irish welfare organisations which the ESP part funds offer advice on accessing benefits in both Ireland and the country of residence. Examples are the London Irish Centre, the Aisling Irish Community Centre in Yonkers, USA, and the Irish Support Agency in Sydney.

### ***15.3.5 Economic Hardship***

The DFA website makes it quite clear that Irish consulates do not provide cash benefits under any circumstances. Furthermore, Ireland's Basic Supplementary Welfare Allowance, meant to be available for cases of economic hardship, is not available to citizens living abroad.

The Irish authorities consider they assist people in economic hardship while living abroad through their funding of Irish welfare organisations in many countries in the diaspora under the ESP. Any diaspora organisation can apply for funding as long as they satisfy the relevant criteria, which can vary from year to year. Consequently, consulates may often refer individuals who approach them in economic hardship to an organisation in the destination country that the Irish Government funds which they know deals with the relevant matter.

In the UK, the ESP funds the Benefits Advice Shop. In the USA, Chicago Irish Immigrant Support, funded by the ESP, offers relevant advice in this area. In

Australia, the Irish Australian Support and Resource Bureau, based in Melbourne, gives assistance to those in distress. The Irish Canadian Immigration Centre in Toronto also offers relevant advice.

## 15.4 Conclusions

Ireland is a small country with a large diaspora, this perception of Ireland's relative resources in part lies behind its smaller than average network of consulates and their clearly delineated and limited responsibilities. Since the turn of the century, and especially since the financial crash in 2008, Ireland has focused more on the diaspora than before, both for the economic and cultural benefits that may accrue to Ireland and to fulfil its commitments to the welfare of Irish emigrants and their children abroad and to strengthening ties between Ireland and its diaspora.

In 2015, the Department of Foreign Affairs and Trade (DFA) published *Global Irish*, this was a landmark document clearly setting out Ireland's diaspora policy and Ireland's interests and responsibilities that flowed from this. This policy is being reviewed and revised during 2019 as part of Ireland's new statement of foreign policy, *Global Ireland 2025*. This is a plan to double Ireland's international footprint by 2025, and a new diaspora policy will be developed in this context.

The main criticisms of Ireland's diaspora policy are about its overwhelming economic motivation as it seeks either to make money or cultural capital out of the Irish diaspora. There is in Ireland a paradox, probably generated by its extensive history of emigration, between the assumed strength of association with Ireland entailed in being a resident compared with being a citizen. As has been outlined, this impacts extensively on the social protection benefits available to Irish people abroad, with a large list of benefits requiring a Habitual Residency Condition to be satisfied.

After 2008, the focus on the diaspora was on it helping to provide policy solutions in Ireland's time of need. Subsequently, a much wider interpretation of Ireland's diaspora policy and of the relationship between Ireland and its diaspora was outlined in the publication *Global Irish* (DFA 2015). However, this period has also highlighted the contradiction between residency and citizenship and this has come to a head in the campaign for voting rights for Irish citizens abroad. The Irish Government has made a first step towards rectifying this democratic deficit by announcing that it is committed to holding a referendum about extending the right to vote in presidential elections to citizens abroad.

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# Chapter 16

## Diaspora Policies, Consular Services and Social Protection for Italian Citizens Abroad



Carlo Caldarini

### 16.1 Introduction

The Italian diaspora is a large-scale historical phenomenon that has involved millions of people for about a century and a half. Except for the fascist era, the Italian authorities have always demonstrated an interest in the phenomenon of emigration, and have even tried to regulate and support it. For example, the Government has, at given times, subsidized travel expenses, ensured repatriation, banned emigration to certain countries during pestilences, and subsidized the cost of some Italian charities, schools and hospitals abroad (Foerster 1919; Murat et al. 2008).

Italy was also the first country in the world to promote a bilateral agreement, in the early 1900s, aimed at guaranteeing acceptable living and working standards for their emigrants working abroad (Caldarini 2014).<sup>1</sup> But how is the situation today? This chapter presents the main features of current Italian diaspora policies, especially in the area of social protection. After briefly presenting some basic figures regarding the history of Italian emigration, the first section discusses the institutional framework by which Italian authorities interact today with their nationals abroad, as well as the main policies of engagement with non-resident citizens in areas that are not directly related to social protection (e.g. education, electoral rights, etc.). The second section provides descriptive information about the policies and services offered by Italian authorities to respond to the social protection needs of nationals abroad across five specific policy areas: unemployment, health care, pensions,

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<sup>1</sup> *Convenzione fra l'Italia e la Francia 15 aprile 1904 per la reciproca concessione di guarentigie ed agevolzze ai rispettivi operai.*

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family and economic hardship. For each of these areas, the chapter highlights the role of the main institutional actors in charge of specific social protection areas.

A special category of social actors occupies an important place in this context: the so-called *Patronati* institutes. As will become apparent in this chapter, *Patronati* have become since World War II a central institution in the field of social protection and migration policies, at home and abroad. This is a category of social actors deeply linked to the history of the Italian diaspora, as well as that of Italian trade unionism, and which is unparalleled in any other country in the world (Caldarini 2010).

## 16.2 Diaspora Characteristics and Home Country Engagement

### 16.2.1 *The Italian Diaspora and its Relations with the Homeland*

Historically, three major waves of Italian emigration can be identified. The first massive wave began in 1861 with the unification of Italy and ended in the 1920s with the rise of the Italian Fascism. A second wave began after the end of World War II and ended approximately in the 1970s. It marked, inter alia, the beginning of the transition of Italy from a country of emigration to one of immigration.<sup>2</sup> A third wave, still ongoing, started in 2007, when the emigration flow started to grow again in an extraordinary way, particularly among young people. In addition to international migration, Italy has also experienced large-scale internal migration between regions, with a significant cultural, economic, social and political impact on the country (Ascoli 1979; Pugliese 2006).

Overall, it is difficult to provide exact figures on how many Italians have left their country permanently, but different estimates have been made by scholars and public institutions. King (1978) estimated that about 25 million Italians were residing outside of Italy in the 1970s. Gabaccia (2000) estimated that since 1800, over 27 million have left Italy, and more than half have returned home. However, she also argues that rather than forming a “nation without borders”, Italy actually counts “many diasporas”, as migrants have in fact maintained strong ties with their families and regional cultures. In 2000, the Italian Ministry of Foreign Affairs estimated that between 60 and 70 million people of Italian origin were residing abroad at the time (Caritas 2001). Lastly, the most recent official data of the Register of Italians Residing Abroad (AIRE) shows that the number of nationals residing abroad who are officially registered with Italian authorities has increased by 70% in the last 13 years, moving from 3,106,251 in 2006 to 5,288,281 in 2019 (Fondazione Migrantes 2019).

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<sup>2</sup>In 1973, for the first time in Italy the migration balance became positive: 101 entries for 100 expatriates (IOM 2011).

### 16.2.2 *Diaspora Infrastructure and Key Engagement Policies*

Over the years, Italy has built a composite diaspora infrastructure to deal with its population abroad. This infrastructure entails that a number of services are provided to citizens abroad but also that an advance form of consultation exists between the diaspora and the homeland. The main pillars of this infrastructure are the following: (1) a network of consular, cultural and educational institutions abroad, (2) a system of local consultation bodies, (3) a network of regional emigration councils, (4) a specific parliamentary representation of Italians abroad, (5) a specific governmental authority for Italians abroad and (6) a unique transnational network of welfare advice centers, called *Patronati*. This section discusses each one of them, along with the core missions they conduct.

First, given the importance of the diaspora, Italy has developed over the decades an important network of consular offices, cultural institutes and Italian schools abroad.

The general task of the consular offices is to protect the interests of Italians abroad and to provide them with services and assistance, for example, in cases of death, accident, serious illness, arrest or detention, natural disasters, riots, armed conflict, etc. They provide exceptional assistance and subsidies in case of “documented indigence” in the form of a “food package”, a one-off cash aid or repatriation. More classically, they issue emergency travel documents, notification abroad of judicial documents, driving licenses, vehicle registrations, and provide information on home and host country social protection. Consulates also ensure the operation of the Register of Italians Residing Abroad (AIRE), a key instrument created in the 1980s that allows administrative contacts between Italians abroad and their homeland.<sup>3</sup>

Consular repatriation only concerns Italian citizens who are experiencing issues that cannot be resolved locally, in the host country. It is provided by the Ministry of Foreign Affairs, at the expense of the Treasury Department, in collaboration with the competent local authorities (prefectures, social services, etc.), only in case of “proven financial hardship”. In all other instances, repatriation can occur subject to the grant of a loan that must be repaid. The consulates also provide advice and support in case of repatriation of Italian citizens deceased abroad. They provide the authorization to the Italian municipality for the burial of the body or cremated remains, and the issue of the mortuary passport. In case of certifiable state of indigence, the consulate or embassy may aid the family of the deceased by reimbursing the cost of any properly documented funeral expenses paid locally.

In addition to the actual consulates, mobile consular services are offered, and a network of honorary consulates have been established in most countries. An honorary consular office mainly deals with orientating citizens and forwarding their requests to the general one.

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<sup>3</sup> Legge 27 ottobre 1988, n.470. *Istituzione dell'Anagrafe e censimento degli italiani all'estero* (AIRE).

In liaison with the consulate network, 83 Italian Cultural Institutes (ICI) promote the diffusion of Italian culture and language throughout major cities around the world. It is their mission to organize cultural and artistic events, to manage libraries and to establish contacts between Italian and foreign cultures.

Looking at schools in particular, the network of Italian schools abroad includes: 8 state schools (Addis Ababa, Asmara, Athens, Barcelona, Istanbul, Madrid, Paris and Zurich), 43 state-authorized schools across the world, 7 Italian sections in European schools, 77 Italian sections in foreign, bilingual or international schools, and more than 200 courses in Italian language and culture and lectureships at foreign universities (Ministero degli Affari Esteri 2017).

Despite the fact that Italian emigration has started to increase again in recent years, the number of consulates and cultural institutes decreased between 2009 and 2016 by 24% and 10%, respectively. Because of budgetary restrictions, 25 consulates, 9 cultural institutes and 187 educational institutions have been closed, most of them in Europe. To partially compensate this decline, honorary consulates have increased over the same period by 5% (Ministero degli Affari Esteri 2011, 2017).

Second, Italy created in the 1980s a widespread system of consultation and representation of Italians abroad, organized at two geographical levels. At the local level, the Committees of Italians Abroad (COMITES) were established between the 1980s and 1990s.<sup>4</sup> Each local COMITES is elected directly by Italians abroad and cooperates with its consular authority in the protection of the interests of nationals residing in the consular district. Its task is to identify the social, cultural and civil needs of the community and to promote initiatives in matters pertaining to the social and cultural life. It expresses a mandatory opinion on state funding granted to the media and to institutions and associations, concerning local activities for the benefit of nationals abroad. Depending on the number of residents, it can be made up of 12 or 18 members. More than 100 COMITES have been established all over the world, but primarily in Europe and the Americas (Ministero degli Affari Esteri 2017). The interest of Italians abroad for COMITES is however limited as demonstrated by the fact that less than 5% of the eligible voting population participated in the last election of 2015.<sup>5</sup>

The General Council of Italians Abroad (CGIE)—established in 1989—performs, at a global level, the same function that the COMITES perform locally.<sup>6</sup> It advises the Government and the regions on matters of major interest for Italians abroad: living conditions, education and social services, financial support for associations, information for Italians abroad, consular activities, etc. As a formal

<sup>4</sup> *Legge 8 maggio 1985, n. 205. Istituzione dei comitati dell'emigrazione italiana (COEMIT); Legge 5 luglio 1990, n.172. Istituzione dei comitati degli italiani all'estero (COMITES).*

<sup>5</sup> According to the Ministry of Foreign Affairs, 243,162 citizens voted in 2015, out of a total of 3,747,341 (6.5%). Of these, 64.9% sent in their ballots on time, bringing the actual turnout to 4.46%. The number of valid votes was 141,284, i.e. 3.75% of the electorate. [www.esteri.it/mae/it/sala\\_stampa/archivionotizie/approfondimenti/2015/05/elezioni-comites-l-esito-delle.html](http://www.esteri.it/mae/it/sala_stampa/archivionotizie/approfondimenti/2015/05/elezioni-comites-l-esito-delle.html) Accessed 17 March 2020.

<sup>6</sup> *Legge 6 novembre 1989, n. 368. Istituzione del Consiglio generale degli italiani all'estero (CGIE).*



consultative body, the opinions and recommendations that the CGIE addresses to Italian institutions (mainly Government and Parliament) may also concern social protection issues (in particular, pensions and social assistance for the most deprived). Since 1998, the CGIE's opinion has been mandatory for each act of the Government and regions concerning Italians abroad.<sup>7</sup>

The CGIE Plenary Assembly includes 65 members residing abroad, elected by the COMITES network, and 29 members appointed by the Government, following recommendations from the parties represented in Parliament, trade unions and the most representative diaspora institutions. The Minister for Foreign Affairs chairs the CGIE Assembly. In spite of this elaborate structure, the opinions of the CGIE rarely have a real impact on political decisions. For instance, since 1992, a number of recommendations have been made by the CGIE in favor of a "social allowance for poor elderly people living abroad", but the Government has never taken these into consideration (see Narducci 2014).

Third, even though immigration and emigration policies are essentially the responsibility of the central Government, regional institutions promote and finance initiatives primarily aimed at preserving and strengthening social and cultural relations between emigrants and their region of origin. To this end, during the process of decentralization and regionalization of the Italian state that took place from the 1970s through the 1990s, the 21 regions created their own Regional Emigration Councils (*Consulte regionali dell'emigrazione*). All the Emigration Councils are established by regional laws and only have an advisory function. Their mission is to formulate opinions, proposals and recommendations to the regional Government regarding cultural and exchange activities, social conditions, information and studies, right to study, dissemination and preservation of regional cultural and artistic heritage. They are composed of local elected officials at regional, provincial or municipal level, experts, representatives of economic organizations, trade unions and emigrant associations.

Fourthly, and this is a central and recent feature of the Italian system of representation of the diaspora, since 2001, Italian abroad have had the right to vote and stand for Italian elections without the need to return to Italy.<sup>8</sup> Thanks to this reform, all Italian citizens over 18 years old who are registered with the Register of Italians Abroad (AIRE) can vote by post (absentee ballot) and stand as a candidate.<sup>9</sup> This right was first used in the 2006 general elections and allowed Italian voters residing abroad to elect six senators and 12 deputies to the national Parliament, in representation of a special extra-territorial electoral constituency (*Circoscrizione Estero*), divided into four continental districts (see Table 16.1). Through the same system,

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<sup>7</sup> *Legge 18 giugno 1998, n.198. Modifiche alla legge 6 novembre 1989, n. 368, recante istituzione del Consiglio generale degli italiani all'estero.*

<sup>8</sup> *Legge 27 dicembre 2001, n. 459. Norme per l'esercizio del diritto di voto dei cittadini italiani residenti all'estero.*

<sup>9</sup> Italian citizens residing abroad can also return to Italy to vote. No provisions are made for refunding the travel expenses of those who have opted to vote in Italy.

**Table 16.1** Composition of the Foreign Constituency (*Circostrizione Estero*)

Continental districts	Italians residing abroad	Italians residing abroad eligible to vote	Deputies	Senators
Europe	2,685,815	2,261,416	5	2
South America	1,559,068	1,343,929	4	2
North and Central America	451,062	389,060	2	1
Africa, Asia, Oceania and Antarctica	277,997	236,449	1	1
<b>Total</b>	<b>4,973,942</b>	<b>4,230,854</b>	<b>12</b>	<b>6</b>

Sources: *Decreto del Presidente della Repubblica*, 28 Dicembre 2017; *Ministero dell'Interno*

since 2001, it is also possible for Italian citizens residing abroad to vote in Italian referendums.

Given the size of the diaspora (officially more than 4, 2 million voters residing abroad) and the importance of the parliamentary seats at stake, virtually all Italian political parties have an organized presence abroad, which reproduces the same internal structure they have in Italy (clubs, committees, federations, associations, etc.). In addition to the political parties officially existing in Italy, there are also specific political parties for Italians abroad, mainly in South America. Concerning the electoral behavior of Italians abroad, Battiston and Luconi (2018) note that there is a strong divergence of interests, and therefore of political orientations, between the various generations of Italian emigrants and consequently, between historical destination countries (such as Latin America) and those in which there was a renewal of the Italian presence (Europe, United States of America). In the 2006 general elections, turnout reached 39%, but the initial enthusiasm is slowly fading as turnout dropped to 29% for the last general elections held in 2018.

Fifth, over the years, different ministerial types of institutions dedicated to the diaspora have been created and have later disappeared. Between 1991 and 2006, a specific Ministry (or Department) has been the competent governmental authority for Italians abroad: the Ministry for Italians Abroad and Immigration (1991–1992), the Ministry for Italians in the World (1994–1995), the Department for Italians in the World at the Presidency of the Council of Ministers (1995–2001), the Ministry for Italians in the World (2001–2006). This competence is currently conferred to the Ministry of Foreign Affairs which means that there is no longer a specific ministry dedicated to this issue. The Ministry of Foreign Affairs includes eight Directorates General, one of which, the Directorate General for Italian Citizens Abroad and Migration Policies (DGIEPM), coordinates the policies relating to the rights of Italians abroad. Such policies include: protection and assistance; social, linguistic and educational promotion; relations with the COMITES and CGIE; funding to associations and committees; electoral services; social protection and tax advice; legislative proposals concerning Italians abroad. The Minister of Foreign Affairs is, *inter alia*, the president of the CGIE.

The sixth, and most innovative Italian diaspora institution compared to other European Union (EU) Member States refers to the Italian Welfare Advice Centers known as *Patronati*. They were created after World War II to facilitate access to

individual rights in the field of social protection. Although the first *Patronati* dates back to the mid-nineteenth century as an unofficial organization, mainly to provide relief for Italian emigrants who disembarked from ships in Argentina and Brazil (Murat et al. 2008), the *Patronati*, as we know them today, were created in 1945 at the initiative of the General Italian Trade Union Confederation (CGIL) and the Christian Association of Italian Workers (ACLI). They are, today still, special non-profit institutes linked to trade unions or corporative associations, providing services in the field of social protection, emigration and immigration, widespread across Italy and abroad, especially in the main destination countries of the Italian diaspora. As they are funded by a slight percentage of the compulsory social security contributions (0.193% from 2015), they are considered as “private bodies of public interest”. Their services are free for all the beneficiaries and no affiliation is in fact required to access them.

The *Patronati* are a key factor in Italy for all persons (regardless of nationality) in accessing social protection. They also have hundreds of offices in at least 40 countries to serve the needs of Italians abroad. They provide services to national and non-national citizens having a link with the Italian social security, mainly in matters of pensions (i.e. former immigrant workers in Italy who have returned to their home country). Blurring further the distinction between public and private, in certain countries, the *Patronati* also provide some consular services: applying for an Italian tax code, passport and ID card, Italian citizenship applications, civil status records, AIRE registration, etc. In the countries where the *Patronati* are present, their services are free of charge. They help to request a home or host country benefit and also to request a benefit from another country, if one has lived and worked in several countries (provided, of course, that the *Patronato* has an office in this other country). Both in Italy and abroad, the *Patronati* operate under the authority of the Italian Ministry of Labour and Social Policies. To be more precise, each *Patronato* operates under a “double authority”: on the one hand, the Ministry of Labour and on the other hand, the social body from which each *Patronato* (and its employees) depends. Each *Patronato* is therefore linked to a collective/corporate social body and is consequently an expression of the political and ideological orientation of the association to which it belongs (workers associations, most of the time). Currently, 25 *Patronati* are legally recognized in Italy, and half of these also work abroad.

As will be demonstrated below, no other country in the world has such an original organizational and institutional model that performs very advanced types of services for citizens abroad (Caldarini 2010). For their services abroad, Italian *Patronati* receive from the social security fund about 40 million euros a year (this figure has been declining for some years).<sup>10</sup> More than half are allocated to the four main *Patronati*, related to the three major union confederations (CGIL, CISL and UIL) and to the Christian workers’ association (ACLI). It is to be noted that, in practice, this budget also serves to finance other trade unions activities (De

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<sup>10</sup>In 2015, the percentage of mandatory social contributions allocated to the *Patronati* was reduced from 0.226% to 0.193%.

Saintignon et al. 2005). Thanks to this system, about 600,000 citizens abroad can be helped free of charge (according to official figure from the AIRE population register, this is almost one in eight Italians abroad). At the same time, this system gives the *Patronati* strength and power greater than any other Italian association or organization abroad (Senato della Repubblica 2016). By way of example, every year, the *Patronati* manage, on behalf of the Italian National Institute of Social Security (INPS), about 200,000 tax returns, and almost 400,000 certificates of living status of Italian pensioners abroad (see below).

## 16.3 Diaspora Policies and Social Protection in Italy

The Italian social protection system is sometimes considered one of the most fragmented among EU Member States and the countries belonging to the Organization for Economic Cooperation and Development (OECD). The incidence of undeclared work, the lack of universal policies against poverty, the weak labor protection for some forms of contracts and the proportionally low social spending, mainly concentrated on pensions and older people, are historically some of the root causes of social inequality and poverty in Italy (Saraceno 2014; Zoli 2004).

Social protection policies for the diaspora should also be understood in this context. In the infrastructure described in the previous section, the *Patronati* are the main actors operating abroad in the field of social protection. Indeed, the consultative bodies (CGIE, regional councils or parliamentary representation of Italians abroad) do not play an effective role in terms of social protection for nationals residing abroad. The consulates, on the other hand, have only a generic function “to provide for the protection of Italian workers, particularly in terms of living conditions, work and social security”. Their role is thus to ensure the link between citizens abroad and Italian social security institutions and give information to citizens. However, they have no specific task of assisting nationals residing abroad to access the home or host country benefits and their mission of information provision consists mostly in offering information on pension payments abroad or on pensioners’ income declaration, but not (or rarely) on unemployment or other social protection benefits. Overall, it is a standard procedure that the consulates redirect citizens towards the *Patronati*, in countries where these are present.

### 16.3.1 Unemployment

Beyond the EU framework (see European Commission 2017), Italian public institutions have no specific policies, programmes or services responding to the needs of unemployed nationals residing abroad. Consulates do not have a specific role in the field of unemployment either. The only organisations financed by public money, providing information and concrete services to access home and host country-based

unemployment benefits for Italian workers abroad, are the *Patronati*. One of their functions is to submit administrative documents (or other forms of administrative support) to public institutions in charge of unemployment benefits. In practice, however, citizens abroad experience that the level of service provided by the *Patronati* in the area of unemployment is much more limited than that provided in the area of pensions. The reason for this is that only some of the services offered by the *Patronati*—such as pensions—are taken into account in the calculation of the annual grant they receive from the Italian Government, while others—such as unemployment benefits—are not compensated at all. More concretely, if a *Patronato* successfully deals with a request for a disability pension, a score of 6 will go into the calculation of the total annual funding that the Italian state will pay to this *Patronato*. A retirement pension accounts 5 points. A residence permit or family reunion accounts only for 0.35 points. Other benefits, such as unemployment benefits, are worth zero points. In total, the *Patronati* need to treat 95 different types of social benefits and only 37 of these lead to a score between 6 and 0.35. All the others are worth zero points and therefore do not contribute to the calculation of the annual funding.

Lastly, it is worth mentioning the existence of a special unemployment benefits scheme for workers repatriated to Italy after a period of work abroad, in EU or non-EU countries. It concerns those who have involuntarily lost their job for dismissal or non-renewal of a seasonal employment contract by the employer abroad.<sup>11</sup> The maximum duration of this special benefit is 180 days, and the amount is about 30% of the conventional salary, according to tables established by annual ministerial decrees. In addition to being little known, even among insiders, this special unemployment benefit scheme is rarely applied because, to access it, one must return in Italy within 6 months of their dismissal, a period during which one would, more likely, continue to look for work in the host country.

### 16.3.2 Health Care

The Italian National Health Service (SSN) is residence-based and reserved for those registered with the Local Health Authorities (*Aziende sanitarie locali*). Outside the legal and political framework of the EU (see European Commission 2017), Italy has no specific policies to support its citizens abroad in the field of health care. Similarly, national and regional authorities have no specific activities or services to help people living abroad to address health risks or to access disability benefits, no public training, information or awareness campaigns, and consulates and any other diaspora infrastructures have no specific skills in helping nationals abroad in this field.

Only in some exceptional cases, national authorities have the task of intervening to help nationals abroad. Two possibilities exist. First, citizens registered with the

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<sup>11</sup> [www.inps.it/nuovoportaleinps/default.aspx?itemdir=50191](http://www.inps.it/nuovoportaleinps/default.aspx?itemdir=50191). Accessed 17 March 2020.

National Health System, who for work and study related reasons are living in countries outside the EU where there are no bilateral agreements on health care, can take advantage of the home country health coverage indirectly, by advancing the expenses and submitting a request for reimbursement to the Italian diplomatic representation.<sup>12</sup> Second, as mentioned above, in case of health-related economic hardship, Italians abroad in a state of “documented indigence” can address their consulate to benefit from a “consular repatriation” at the expense of the Treasury Department. This concerns only Italian citizens who are experiencing issues that cannot be resolved locally, in the host country.

In the countries with the largest presence of Italian citizens, they can generally count on the support of the *Patronati*, which are specifically funded to help citizens abroad to access the Italian and host country social benefits. In these countries, the task of consulates is therefore mainly limited to the reorientation of people towards the *Patronati*.

With regards to the provision of information in the area of health care, it should also be noted that on the website of the Italian Ministry of Health an interactive guide (“*Se parto per...*”) gives some information on the right to health assistance during a stay or residence in any country in the world, in particular: “how to obtain health care in another country”, “how to request any reimbursement” and “who to contact”.<sup>13</sup>

Lastly, regarding medical care abroad, a peculiarity of the Italian diaspora is the existence of 22 hospitals and 20 treatment centers with Italian assistance in the world. These institutions are mostly private structures, founded by associations, religious bodies and non-governmental organizations —while they may sometimes receive financial support— that do not directly depend on Italian institutions. Their creation is often related to the history of emigration (e.g. in Latin America), colonial history, religious congregations or university cooperation and therefore were not always founded with the objective of responding to the needs of Italians abroad.

### 16.3.3 Pensions

As explained earlier, the Italian authorities entrust the *Patronati* with the task of helping Italian pensioners abroad to access their right to a pension whether it concerns a pension paid by Italy or one paid by the country of residence. The *Patronati* have direct access to the main databases of the Italian social security system and can therefore carry out numerous tasks for citizens abroad in this area. For instance, they can deliver life certificates, transmit tax returns, verify payments, check social insurance contributions, apply for pensions under international agreements,

<sup>12</sup> *Decreto del Presidente della Repubblica 31 luglio 1980, n. 618.*

<sup>13</sup> [www.salute.gov.it/portale/temi/p2\\_4.jsp?lingua=italiano&area=Assistenza%20sanitaria](http://www.salute.gov.it/portale/temi/p2_4.jsp?lingua=italiano&area=Assistenza%20sanitaria). Accessed 17 March 2020.

calculate the contribution periods in different countries (i.e. aggregation), export social security benefits, claim for survivors' pensions, redress decisions taken by the pension institutions, etc. Also, it is important to note that the *Patronati's* support materializes via delegation of the interested party, meaning that they can carry out in his/her name all the practices, including legal disputes if necessary.

In 2016, the Italian National Institute of Social Security (INPS) paid 373,265 pensions abroad. The total expenditure exceeds one billion euros (CSRIP 2018). Sixteen percent of pensions paid abroad (i.e. almost 60,000) are the result of fully paid contributions in Italy: they are therefore pensioners who have chosen to leave Italy to reside in another country, in many cases due to the cost of living and tax benefits. Seventy-five percent of the expenditure for pensions paid abroad is concentrated in the ten countries in which the greatest flow of emigration of workers from Italy occurred in the last century (Table 16.2). Most of the activities (and the money flows) of the *Patronati* abroad are also concentrated in these ten countries.

In order to pay pensions abroad, INPS uses the services of a bank, which gets awarded a three-year public contract. Among other things, the assigned bank has the task of annually verifying the pensioner's living status, address and residence. As from 2012, the bank designated is Citibank. Concerning life certificates, Citibank yearly mails to each Italian pensioner abroad a "Life Certificate Form". The pensioner then completes this form with a certified signature and sends it to the bank. The Life Certificate Form may be authenticated by an official from the Italian consulate or embassy, or alternatively, by a municipal officer or a notary.

As mentioned previously, pensions are the social protection area where the *Patronati* are most eager to intervene as they are best financially compensated for this type of service. Yet, this was not the initial mission of the *Patronati* as originally, between 1940 and 1960, they served mainly to help active workers (accidents at work, occupational diseases, unemployment, etc.).

**Table 16.2** Countries with the highest number of Italian pensions paid abroad in 2016

	Number of pensions	Total expenditure €
Canada	57,215	76,375,147
Australia	47,529	90,580,246
Germany	47,273	90,024,260
France	44,971	100,179,082
USA	39,036	97,734,086
Switzerland	30,649	81,574,387
Argentina	25,938	95,907,561
Belgium	14,714	33,769,715
UK	10,795	27,712,802
Brazil	8030	39,816,869

Source: CSRIP 2018

### 16.3.4 *Family-Related Benefits*

Among all social expenditures, the one related to family benefits is by far the least important one in Italy's welfare budget (about 4% of the total social spending). Three different types of family benefits should be mentioned: (1) the Household Allowance (*Assegno per il Nucleo Familiare*), for families of employees and retired employees who have an income lower than that established annually by law; (2) the Local Authority Allowance (*Assegno dei comuni*) for low-income households with at least three minor children, granted exclusively through the local authorities; and (3) the Family Allowance for Pensioners (*Assegni familiari ai pensionati*), for families of former self-employed workers (craftsmen, traders and farmers). While the first two benefits are subject to the residence principle and are not exportable, the Family Allowance for Pensioners can be paid to pensioners residing abroad. In this case, the *Patronati* are also given the task of helping Italians abroad to access this benefit.

### 16.3.5 *Economic hardship*

A minimum income, on a national scale, was established for the first time in Italy by the Stability Law of 2016. This new scheme, called *Reddito di inclusione* (Inclusion Income), has been approved in March 2017, and is in effect only since December 2017 with a limited budget of EUR 1.5 billion. One of the conditions for accessing this scheme was to be resident in Italy for at least 2 years continuously. This Inclusion Income provision did not therefore apply to citizens residing abroad.

In January 2019, Italy introduced two new minimum income schemes called *Reddito di cittadinanza* (Citizenship Income) and *Pensione di cittadinanza* (Citizenship Pension).<sup>14</sup> According to the Government's forecasts, when fully implemented, these two social benefits should concern about 5 million potential beneficiaries, with a total spending of around 6 billion euros a year.<sup>15</sup> As in the case of the Inclusion Income, these two new minimum income schemes do not apply to citizens residing abroad. In addition, the beneficiary must have been resident in Italy for at least 10 years. This last condition was included to limit the benefits for immigrants residing in Italy, but has the associated side-effect of also excluding Italians who return to Italy after a period of residency abroad, even a short one. They, too, need to comply with the 10 years residency criteria.

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<sup>14</sup>*Decreto-Legge 28 gennaio 2019, n. 4. Disposizioni urgenti in materia di reddito di cittadinanza e di pensioni.*

<sup>15</sup>According to INPS data for January 2020, just over 1 million households, corresponding to 2.5 million people, receive the citizenship income or pension. The average monthly amount is €493 per household.



Besides this scheme and as mentioned previously, there is also a cash benefit for Italians abroad “in a state of documented indigence” that can be obtained via the consulate. It is an “absolutely exceptional” cash aid, annually determined by the Ministry of Foreign Affairs, and/or a cash loan, due to unexpected economic difficulties and the impossibility of using the help of family members or third parties. Only the cash loan must be repaid. The “state of documented indigence”, and so the need to repay, or not, the cash aid, must be evaluated by the consulate on a case-by-case basis, according to criteria annually defined by the Ministry of Foreign Affairs. These temporary cash aids are offered to nationals residing both inside and outside the EU, but it is most frequently applied in Latin American countries (Narducci 2014). They are primarily aimed at poor citizens who are not entitled to any social benefit, either from their home or host country.

## 16.4 Conclusions

The Italian diaspora is a large-scale historical phenomenon that has involved millions of people for at least a century and a half. To manage and, initially, encourage emigration, Italy has built throughout the years a composite diaspora infrastructure. Over the last 40 years, Italy has attached great importance to the representation and consultation of nationals abroad. But probably the most important policy for Italians abroad, and in any case the most relevant one in the social protection field, from the end of World War II to today, was the creation of the *Patronati*, by the trade unions, in 1945, and their official recognition in 1947 as “private bodies of public interest”.<sup>16</sup>

Italy is not the only country where private organizations linked to trade unions are funded to carry out functions of public interest in the field of social protection. Well-known examples are Belgium, Denmark, Finland and Sweden, where trade unions manage unemployment insurance (the so-called “Ghent system”) (Scruggs 2002). But Italy is the only country in the world to have created bodies to make social protection accessible to its citizens abroad. Moreover, unlike any other country, the services provided by the Italian *Patronati* are free for all, without any membership requirements, and, in theory, cover all areas of social protection (Caldarini 2010).

In all the countries where the diaspora is significant, the *Patronati* are present and cooperate closely with consulates and embassies. In some countries they often provide some consular services (consular correspondents), especially in the regions where the general consulates have been closed. The Italian law provides, in fact, that the *Patronati* must also carry out support activities for Italian diplomatic and consular authorities abroad. It is also a standard practice that the consulates redirect towards the *Patronati* for any social problem related to pensions, social protection,

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<sup>16</sup> *Decreto legislativo del capo provvisorio dello Stato 29 luglio 1947, n. 804. Istituti di patronato e di assistenza sociale.*

social assistance, repatriation, indigence, freedom of movement and residence, etc. All this allows them to have a voice on consular and diplomatic policies. In other words, while they are not a direct representation of the state abroad, the *Patronati* conduct a series of missions that the state would usually take charge of.

Because of its central role in the life of many Italians residing abroad, the *Patronati* are also a key political player in relation to the diaspora. Its voice weighs considerably on the election of the members of the COMITES and CGIE. Similarly, during electoral campaigns for the seats allocated to the Foreign Constituency (*Circostrizione Estero*), the actions of the *Patronati* has an influence on the vote of citizens abroad, especially older people, and many candidates from these institutions. In this regard, it should be recalled that in the 2006 general elections, the vote of Italians abroad determined the victory of the center-left coalition (led by Romano Prodi) which defeated the center-right (Silvio Berlusconi) by several thousand votes, thanks only to the results in the *Circostrizione Estero*.

Although most Italians abroad do not know or do not use *Patronati*, especially among the young and the most qualified, they are certainly an important network of protection, participation and solidarity. For people with more difficulties (such as isolated seniors and people who cannot read or write), the *Patronati* are sometimes a last safety net. Overall, it can be argued that the *Patronati* have become fairly powerful. For this reason, using the pretext of austerity, several political parties and lobbies have been calling for some years for their closure or reduction in number. A popular referendum on the abolition of funding and legal recognition of the *Patronati* had been promoted by some political forces in 2000, but it was rejected by the Constitutional Court. This was probably one of the reasons why the last stability laws reduced funding and some free services will have to gradually become paid for.

In this context, it is worth considering what would happen if the *Patronati* were further downsized or, as some ask for, drastically closed. We have already seen that the Italian social protection system is particularly fragmented and weak. Social expenditure is low and focused on old-age pensions. The *Patronati*, which were born to help mainly active workers (for accidents at work, occupational diseases, unemployment, etc.) and those who emigrated in search for work (therefore young people), have gradually become, in the last decades, “services for the elderly” above all (old-age pensions, survivors’ pensions, etc.) and are finding it increasingly difficult to intercept the new forms of the Italian diaspora, especially young, skilled and atypical workers (Caldarini et al. 2014).

Because of the *Patronati*’s quasi-monopoly in dealing with citizens abroad, one can wonder, after all, if their position has weakened all other diaspora infrastructures. As shown in this book, in other EU countries, consulates and public social security institutes directly and effectively carry out policies and services facilitating access to social protection for nationals residing abroad. In these countries, a service like that of the *Patronati* have no reason to exist (Caldarini 2010). Yet, in the current Italian context, characterized by the reduction of consular services, the downsizing, or even, as some plead for, the closure of the *Patronati*, would significantly impact citizens abroad. The question now is whether it is more appropriate to reform, restructure, consolidate or secure the existing heritage and its wealth of experience, or, in order to rebuild, to first remove the rubble.

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# Chapter 17

## Diaspora Policies, Consular Services and Social Protection for Latvian Citizens Abroad



Aija Lulle

### 17.1 Introduction

In this chapter, I will demonstrate that policies for citizens abroad are largely shaped by ethnic identity arguments. While diaspora policies are new and are trying to embrace all who are willing to belong to Latvia, ethnic underpinnings are still strong. Besides, social protection policies for citizens abroad are very limited.

The chapter proceeds as follows. Firstly, I will explain diaspora characteristics, main emigration waves and destination countries. Further, I will describe the infrastructure of the key institutions involved in diaspora policy planning and main engagement policies. Secondly, I will analyse social protection policies across five main policy areas: unemployment, health care, pensions, family-related benefits and support in cases of economic hardship. Finally, I will provide the main conclusions in relation to diaspora and social protection realities in Latvia, while also explaining why ethnic arguments dominate in Latvia's engagement with its citizens abroad.

### 17.2 Diaspora Characteristics and Home Country Engagement

This part of the chapter presents the general institutional framework by which Latvian authorities interact with the Latvian 'diaspora' abroad. The term 'diaspora', in fact, started circulating in the political and public discourses only in the late 2010s. The term has a clear political incentive for emigrants and government

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institutions – to move away from the term ‘migrants’ with its negative and excluding connotations (Lulle 2018). Although emigration took place in waves before and during the two World Wars, paradoxically, the term ‘diaspora’ was not in use until recently. This discursive shift is clearly related to attempts to establish a diaspora policy and to engage with Latvians abroad who have long and meaningful ties with Latvia.

### ***17.2.1 The Latvian Diaspora and Its Relations with the Homeland***

Latvia is an emigration country. More than 400,000 people have emigrated from Latvia between 2000 and 2017 (OCMA 2018). This accounted for 17% of Latvia’s population in 2000. Hence, the resident population – i.e. the number of inhabitants in Latvia – has been rapidly declining and stood at 1.9 million at the beginning of 2018.

The country has experienced several large emigration waves during the twentieth and early twenty-first centuries. In the early twentieth century, emigration consisted in movements of refugees towards Russia during World War I or migration for opportunities in the agricultural sector. Most notably, the next emigration wave consisted of political exiles during World War II. Deportations (especially in 1941 and 1949) forcibly relocated individuals from Latvia to Siberia. Migration to Russia occurred also during the USSR and after the state independence was re-established in 1991 (Lulle 2018). The estimated number of Latvians in Russia is around 15,000 (Vlasova 2014).

Beyond Russia, another notable twentieth century emigration wave comprises that of a religious group of more than 2300 Baptists who emigrated to Brazil. Descendants of emigrants are still active diaspora nowadays, as it is estimated that around 20,000 people of Latvian origin still live in Brazil.

After World War II, the main diaspora destinations were Germany (around 142,000 refugees were settled there in 1940s), the United States (around 38,000 refugees, mainly from Germany, went to the US in 1940s and 1950s), Canada (around 26,000 refugees arrived in 1940s and 1950s), Australia (around 20,000 refugees in 1940s and 1950s), the United Kingdom (around 18,000 refugees arrived in 1940s and 1950s) and Sweden (4500 refugees in 1940s) (Lulle 2018; Veigners 2015).

More recently, a broad spectrum of labour and, to lesser extent, lifestyle migrants who emigrated after Latvia joined the European Union (EU) has increased yet again emigration. Today, the main countries of residence of the old diaspora and the new Latvian emigration are the United Kingdom (around 100,000), the United States (96,000), Germany (30,000) and Sweden (30,000). The most recent flows have however concentrated towards two new destinations countries: Ireland (30,000) and Norway (11,000) (Veigners 2015; OCMA 2018; MFA 2018; Lulle 2018).

## 17.2.2 *Diaspora Infrastructure*

The main actor in the diaspora policy framework is the Ministry of Foreign Affairs (MFA) and its network of diplomatic missions and consulates.<sup>1</sup> The Ministry of Foreign Affairs coordinates overarching diaspora policies. The latter are subordinated to a broader policy planning document “The Guidelines on National Identity, Civil Society and Integration Policy for 2012–2018”,<sup>2</sup> which defines cooperation with diaspora. The Ministry of Culture oversees the implementation of these guidelines. The document assigns the responsibility for diaspora policies to the Ministry of Culture, the Ministry of Foreign Affairs, the Ministry of Education and Science, the Ministry of Economy, and other public institutions. These institutions, together with non-governmental Latvian diaspora organisations and communities, form a permanent Diaspora Policy Working Group under the Ministry of Foreign Affairs. It is to be noted that, while it is not a state institution, the World Federation of Free Latvians and European Latvian Association acts as an umbrella organisation. It has, however, a structural link to the Latvian government authorities, as their representatives are permanent members of the diaspora working group and both organisations take active part in policy planning back in Latvia.

The Diaspora Policy Working Group was established in October 2013<sup>3</sup> and a post of an ambassador at large in cooperation with diaspora was established. The four main areas for this group are defined as follows: (1) facilitating the civic and political engagement of the diaspora; (2) preserving the diaspora’s bonds with Latvia and the Latvian identity; (3) promoting cooperation with the diaspora in business, science, education, and culture; and (4) providing support for those who wish to return to Latvia. Besides, a first pilot project to provide information and support for returnees was launched in 2018 by the Ministry of Environmental Protection and Regional Development. Hence, this ministry has also joined as a player in the whole diaspora infrastructure. Latvia has more than 100 honorary consulates across all continents. For instance, in the UK, the most popular destination country of recent Latvian migrants, there are eight honorary consulates. Mobile consular services are also provided by the embassies.

<sup>1</sup>MFA. (2014). Diaspora Policy in Latvia. Available <http://www.mfa.gov.lv/en/policy/2014-12-22-11-41-00/diaspora-policy-in-latvia>. Accessed 2 March 2019.

<sup>2</sup>MC. (2012). “The Guidelines on National Identity, Civil Society and Integration Policy for 2012–2018”, Riga: Ministry of Culture, [https://www.km.gov.lv/uploads/ckeditor/files/Sabiedribas\\_integracija/Petijumi/En\\_Pamatnostad.pdf](https://www.km.gov.lv/uploads/ckeditor/files/Sabiedribas_integracija/Petijumi/En_Pamatnostad.pdf). Accessed 2 March 2019.

<sup>3</sup>MFA. (2014). “On Cooperation of the Foreign Ministry with the Diaspora in 2013–2015,” Informational report, Ministry of Foreign affairs, Republic of Latvia. State Chancellery (2015) Work placement programme for diaspora youth, State Chancellery, Republic of Latvia, 2015.

### 17.2.3 Key Engagement Policies

The main engagement policies of Latvia with its population abroad are related to: (1) voting and political participation of Latvians abroad; (2) language and education and; (3) return migration support. None of these areas are dealing directly with the social protection of citizens abroad. The latter, however, includes social policy elements in relation to return to the homeland.

Voting rights and dual citizenship are important general policies that shape the Latvian state's relations with its diaspora. Immediately after the restoration of independence in 1991, Latvia issued regulations regarding citizenship and naturalisation (Augstākā Padome 1991).<sup>4</sup> Those who themselves or their ancestors were citizens of Latvia until 17 June 1940 (when the Soviet Union annexed Latvia), were granted the Latvian citizenship automatically. Others, who arrived in Latvia after 17 June 1940, were given the status of non-citizens<sup>5,6</sup>. When it comes to non-citizens in Latvia, their position and rights are considered closer to that of citizens than of stateless persons, although non-citizens have no voting rights and face restrictions with regard to a number of professional occupations, mostly in the public sector. Most importantly, non-citizens have more limited opportunities to benefit from the right to free movement in the EU than mobile Latvian citizens.<sup>7</sup> Conversely, non-citizens have greater facilities to travel to Russia compared to Latvian citizens.<sup>8</sup> In spite of these differences, non-citizens who reside abroad have equal access to consular protection as Latvian citizens abroad, although they cannot vote in general elections and referendum.

<sup>4</sup>Augstākā Padome. 1991. "Decision on restoration of citizenship and main principles of naturalisation", Riga: Parliament of the Republic of Latvia "Lēmums Par Latvijas Republikas pilsoņtiesību atjaunošanu un naturalizācijas pamatnoteikumiem". Riga: Parliament of the Republic of Latvia Available <http://likumi.lv/doc.php?id=69914> Accessed 2 March 2019.

<sup>5</sup>Non-citizens had to go through the naturalisation process "by which all permanent residents of Latvia may become citizens and establishes the requirements that applicants for citizenship need to fulfil," most notably, Latvian language and history knowledge (MFA 2014c). MFA. 2014c. "Citizenship Law". Available <http://www.mfa.gov.lv/en/policy/society-integration/citizenship-in-latvia/citizenship-law> Accessed 2 March 2019.

<sup>6</sup>Law on former USSR citizens. (1995). Law on the status of those former USSR citizens who do not have the citizenship of Latvia or that of any other state, Riga: Parliament of the Republic of Latvia Available <http://likumi.lv/doc.php?id=77481> Accessed 2 March 2019.

<sup>7</sup>MFA. n.d. Ministry of Foreign Affairs, Republic of Latvia. All list of countries where Latvian citizens can travel without visas, <http://www.mfa.gov.lv/konsulara-informacija/celotajiem/arvalstis-dzivojosajiem/valstu-un-teritoriju-saraksts-uz-kuram-var-doties-bez-vizas-vai-ieprieks-sanemot-ieceļošanas-atļauju>. Accessed 2 March 2019.

<sup>8</sup>When Latvia joined the EU, non-citizens needed visas to travel to the EU. After 2007, they were able to travel without visa except for non-citizens who still must acquire work permits in other EU countries. While citizens of Latvia can travel to 102 countries without applying for a visa, non-citizens can do so only to 43 countries (MFA, n.d.). For entering in non-Schengen Ireland and the UK, non-citizens have to apply for a visa. A different asymmetry comes into force with respect to Russia: while citizens of Latvia must apply for a visa for travelling to Russia, non-citizens can travel without a visa. (for further details, see Lulle and Jukane-Hobein 2017)



Until 1995, exiles and their descendants who were living outside Latvia's territory between 1940 and 1991 and had obtained the nationality of another state (especially Australia, Canada, Germany, the UK, the US or Sweden) could apply for the Latvian citizenship without renouncing the other citizenship. As a result, approximately 30.000 persons obtained dual citizenship (Birka 2015, 55–56; Lulle and Jurkane-Hobein 2017). After 1 July 1995, this window of opportunity for dual citizenship was closed. Latvians abroad who wanted to obtain the Latvian citizenship had to give up their other citizenship and this system continued until 1 October 2013.<sup>9</sup> The purpose of the amendments of the Citizenship Law in 2013 were “to recognise dual citizenship in compliance with the political objectives and interests of the State of Latvia and to retain the aggregate of the citizens of Latvia under increased mobility conditions” (Citizenship Law 1994, Section 1).<sup>10</sup> The general principles of the dual citizenship acquisition were stated as follows:

Latvian citizenship shall be retained for a Latvian citizen who has:  
 acquired citizenship of another Member State of the European Union or Member State of the European Free Trade Association; another Member State of the North Atlantic Treaty Organisation; the Commonwealth of Australia, Federative Republic of Brazil or New Zealand; such country with which the Republic of Latvia has entered into an agreement regarding recognition of dual citizenship (Citizenship Law, Section 9).

While stating multiple exceptions, these general principles excluded dual citizenship with Russia. Citizens and dual citizens can vote in national elections and referendums abroad, although this does not apply for non-citizens. Citizens abroad can vote in person or by post. No registration at consulates is required if a person votes on an election/referendum day in person. Registration at consulates is required if a person wants to vote by post. In addition, consular departments try to maintain lists of contact details of those who want to register voluntarily.

The registration data regarding the Latvian population abroad is not fully reliable as it is common for Latvian citizens abroad to still appear as residents in Latvia. A law on population register stipulates to de-register from Latvia after 3 months, but there are few incentives to de-register. The Diaspora Law (2018)<sup>11</sup> envisages an

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<sup>9</sup> However, between 1 July 1995 and 1 October 2013, and especially after Latvia joined the EU and Latvian nationals emigrated in larger numbers to EU countries, a liminal practice existed in Latvia: if parents, one being a citizen of Latvia, wanted to obtain dual citizenship for their child, this was allowed in certain cases as an exception to the law. For example, if a parent was a citizen of a country which permits dual citizenship, parents could first apply for a Latvian citizenship to their child and then later to the second citizenship, e.g. in the UK. Such situation with dual citizenship for children could exist until a child reaches 16 years and applies for a passport. If Latvia had not introduced dual citizenship in 2013, these children would have had to choose only one citizenship.

<sup>10</sup> Citizenship law (1994). Riga: Parliament of the Republic of Latvia. Available <http://likumi.lv/doc.php?id=57512>. Accessed 2 March 2019.

<sup>11</sup> Diaspora Law (2018). Adopted on 01.11.2018. Riga. Parliament of Latvia. Available <https://likumi.lv/ta/id/302998-diasporas-likums> Accessed 2 March 2019.

option to declare an additional domicile in Latvia. Besides, when obtaining the Latvian citizenship, dual citizens are advised to register their new status, although this is not stipulated by law. Hence, precise data on dual citizens and actual residence are not available.

Next to citizenship and voting rights, another key engagement area is the one concerning language and education. Latvian language is the main question discussed in the meetings of the Diaspora Policy Working Group. To respond to this concern, weekend schools abroad operate with the Latvian state funding which is matched with donations from parents. Such schools exist worldwide in over 100 locations. Most of them are based in top destination countries for the Latvian diaspora: Australia, Canada, Ireland, Germany, Russia, Sweden, the US and the UK. Online distance learning is also provided by the Broceni Secondary school, a state-funded school in Latvia. Education in Latvian language is useful especially for those who want to return to the Latvian education system. Additionally, the Society Integration Fund of the Ministry of Culture and the Ministry of Foreign Affairs organises competitions for diaspora organisations by which funding for specific events can be obtained to organize specific activities for the diaspora.

The third main (and recent) engagement area relates to return migration. The Ministry of Environmental Protection and Regional Development<sup>12</sup> carried out a pilot project in 2018 with the main aim to encourage emigrants to return to certain regions in Latvia. To facilitate return, positions of return policy consultants were established in regional municipalities. Consultants provided information for those who are still abroad and wish to return in terms of employment opportunities, housing, schools and kindergartens. As a result of this pilot project, 163 families returned to Latvia in 2018 (LRC 2019).

In addition, several other ad hoc policies that focus on precise needs of the diaspora exist. For instance, the Latvian state can provide loans for study fees and subsistence. Conditions are constantly changing, but the core requirement is as follows: a person can apply for a loan only if such study programme is not available in Latvia. However, this loan from Latvia might be less favourable than others because it should be paid back regardless of the social situation or employment status. Diaspora organisations also actively provided scholarships and loans for living expenses for Latvians studying abroad, especially in the US and the UK. However, these were carried out without the Latvian state involvement or indeed, when students were not able to obtain loans from the state due to various reasons.

Lastly, the interest of Latvia to engage at the economic and scientific level with its diaspora has materialized recently in the organization of different events. For instance, the diaspora conference takes place every 2 years and is organised by the Ministry of Culture with the participation of diaspora organisations. Similarly, the World Latvian Economics and Innovation Forum or the World Latvian Scientists

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<sup>12</sup>Ministry of Environmental Protection and Regional Development <http://www.varam.gov.lv/>; Pilot project (2018). "On return migration support to regions" "VARAM uzsāk latviešu remigrācijas projektu" Riga: Ministry of Environmental Protection and Regional Development, [http://www.varam.gov.lv/lat/aktual/preses\\_relizes/?doc=25756](http://www.varam.gov.lv/lat/aktual/preses_relizes/?doc=25756). Accessed 2 March 2019.

Congress also bring together state institutions and diaspora organisations on a sporadic basis.

### 17.3 Diaspora Policies and Social Protection in Latvia

Although the previous section has shown that Latvia has engaged with its population in specific areas and has developed an infrastructure to do so, very few services and policies exist for populations abroad in the area of social protection. In Latvia, the main institutions engaged in social protection policies for nationals abroad are the Ministry of Welfare and institutions subordinated to this ministry – the State Employment Agency and The State Social Insurance Agency. In addition, as discussed below, the Ministry of Health and the Ministry of Finance might become more involved in future.

The limited engagement in social policy for citizens abroad needs to be contextualized. Few existing formal practices are usually related to the EU framework of free movement of people. Considering that Latvia has started developing its diaspora policy very recently, with the first policy document published in 2013, this section will present a broader context which may be indirectly related to or may pave a way towards social protection policies in future. The section will focus on three actors: consulates, diaspora institutions and home country institutions in charge of specific social protection areas: unemployment, health care, pensions, family-related benefits and support in economic hardships.

It should also be noted that consulates usually help Latvian citizens in getting in touch with Latvian and the host country institutions in social protection, but it is by no means an obligation. The main obligation is to provide requested documents such as a birth or marriage certificates. Embassies may inform Latvian citizens about a host country's social protection institutions, but this is also not an established policy. Consular assistance is provided only in cases of emergency by offering financial help that should be repaid by the beneficiaries themselves or their relatives.<sup>13</sup> In terms of social protection or consular support, non-citizens of Latvia are treated in the same way as Latvian citizens when they reside abroad. The only difference abroad is that non-citizens are not allowed to vote in general elections and referendums.

Repatriation policy is the only established policy that includes a clear social dimension. Repatriation is a form of return migration policy that is not specifically designed to respond to social difficulties met by citizens abroad but can, de facto, act as such. This policy has three characteristics: (i) a strong ethnic dimension by supporting repatriation of ethnic Latvians; (ii) a historical dimension, by supporting those returnees who left Latvia before 1990 rather than contemporary emigrants

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<sup>13</sup> Consular Support. n.d. Riga: Ministry of Foreign Affairs. Available <http://www.mfa.gov.lv/usa/konsulara-informacija> Accessed 2 March 2019.

and; (iii) a social policy dimension. Specifically, the understanding of ‘a repatriate’ in the Latvian legislation is related to ethnicity (cf Agarín 2013). As stated in the law: “A repatriate is a person, who is a citizen of the Republic of Latvia or whose one of the relatives in the direct ascending line is Latvian or Liv and who is voluntary moving for a permanent life to the Republic of Latvia.”<sup>14</sup> Repatriate is a person who has left Latvia before 4 May 1990 (before independence was re-established), was born abroad, or left Latvia after 4 May 1990 while being under-age. Section 14 of the Repatriation Law envisages the provisions of these benefits to repatriates and their family members:

- covering of travelling costs up to the amount of EUR 711.44 per person;
- a monthly allowance of 90% of the minimum salary in the case of unemployment. In order to receive it, one should submit an application to the Office within 1 year after moving permanently to Latvia and should be registered with the Employment State Agency as an unemployed person. Allowance will be paid each month for up to 6 months, provided that the returnee stays unemployed.

In addition, the municipality of residence has the obligation to help repatriates by providing information about housing possibilities and/or providing a land plot for building a house if available.

### 17.3.1 Unemployment

The main home institutions in charge of unemployment in Latvia are the State Unemployment Agency and the State Social Insurance Agency. In the case of Latvian nationals moving to an EU country, unemployment benefits can be transferred according to the Latvian national legislation and the EU framework (Law on State Social Insurance 1997<sup>15</sup>; Law on Social Services and Social Assistance 2002).<sup>16</sup> For the specific (but numerically relevant) case of Latvian nationals residing in Russia, their social protection in case of unemployment is regulated according to the Latvia-Russia agreement on social protection and its reciprocity (the bilateral social security agreement between Latvia and Russia, 2008). It states that unemployment benefits of Latvian citizens in Russia are paid according to the regulations applicable in Russia and, reciprocally, that Russian citizens living in Latvia receive unemployment benefits according to the Latvian legislation. Beyond EU obligations, no additional unemployment assistance scheme for nationals abroad

<sup>14</sup>Repatriation Law. (1995). Riga: Parliament of Latvia. Available <https://likumi.lv/doc.php?id=37187> Accessed 2 March 2019.

<sup>15</sup>Law on State Social Insurance. (1997). “*Par valsts sociālo apdrošināšanu*” 1/10/1997. Riga: Parliament of Latvia. Available <https://likumi.lv/doc.php?id=45466> Accessed 2 March 2019.

<sup>16</sup>Law on Social Services and Social Assistance (2002). “*Sociālo pakalpojumu un sociālās palīdzības likums*” Riga: Parliament of Latvia 31/10/2002. Available <https://likumi.lv/doc.php?id=68488> Accessed 2 March 2019.

exists. A first pilot project to provide information and support for returnees was launched in 2018 by the Ministry of Environmental Protection and Regional Development. However, its emphasis was on providing information on how to return to regions, find a housing, job and school, but not on social protection.<sup>17</sup>

Lastly, consulates are usually not involved in providing support for the unemployed, although they are involved if documents need to be obtained or renewed to access unemployment benefits. As mentioned above, only the Repatriation Law (1995) envisages monetary support for those who choose to return to Latvia.

### 17.3.2 Health Care

The Ministry of Health and its subordinated institutions are the main institutions responsible for healthcare in Latvia. Support for health-related issues, e.g., in case of invalidity, are also under the mandate of Ministry of Welfare and its subordinated institution – the State Social Insurance Agency. The main instrument for Latvian citizens residing in the European Union derives from the EU legislation and is the European Health Insurance Card (EHIC)<sup>18</sup> accessible to all Latvian nationals residing in other EU countries. As provided by the EU framework, when temporarily returning to Latvia, citizens can access healthcare either privately or with the EHIC card for emergency care.

The fact that access to public healthcare in Latvia is based on the principle of permanent residence<sup>19</sup> is usually an important barrier for citizens officially residing abroad. However, a new healthcare funding law came into force in 2018, stating that access to healthcare will be linked to residence and payments of taxes.<sup>20</sup> For potential returnees, this entails that payments into social budget need to be done several

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<sup>17</sup>In terms of diaspora institutions, there are no special programmes either. Historically, support in the US was provided through the sub-unit of care of the American Association of Latvians in the United States, whereas in the UK, such support was provided via the Latvian Welfare Fund, but rather on an individual, informal basis. Most recently, Latvians who returned to Latvia have established the association “Your Move” that tries to match potential returnees with employers in Latvia, hence indirectly preventing cases of unemployment upon return (Your move n.d) However, these are mainly business-oriented activities for highly educated nationals abroad and potential returnees. There is no stable financial link supporting such initiatives. State institutions simply express (neoliberal) ideological support for self-organisation and self-reliance of diaspora-related activities. Your move. n.d. Available <https://www.yourmove.lv/>

<sup>18</sup>European Health Insurance Card. (n.d.). Available <http://www.vmnvd.gov.lv/lv/nvd-pakalpojumi/456-evak-karte>

<sup>19</sup>Law on Patient Rights. (2009). “*Pacientu tiesību likums*” 30/12/2009 Rīga: Parliament of Latvia Available <https://likumi.lv/doc.php?id=203008>. Accessed 2 March 2019.

Medical Treatment Law. (1997). “*Ārstniecības likums*” 12/06/1997 Rīga: Parliament of Latvia. Available <https://likumi.lv/doc.php?id=44108>

<sup>20</sup>Health care (2017). “*Veselības aprūpes finansēšanas likums*” Health care funding law. Rīga: Parliament of Latvia 14/12/2017 Available <https://likumi.lv/ta/id/296188-veselibas-aprupes-finansesanas-likums> Accessed 2 March 2019.

years before the return if people want to receive healthcare in Latvia. It also means that access to public healthcare will be more restricted to those nationals abroad who would return to Latvia. No specific health benefits are envisaged for people who left Latvia before 1990 and are willing to return to their homeland.

Lastly, consulates are usually not involved in providing support for health-related issues. However, the following can be done under the emergency support in very specific cases, but is not an obligation for authorities: help finding a doctor, help traveling back to Latvia or providing repayable financial support.<sup>21</sup>

### 17.3.3 Pensions

In Latvia, the basic principle of qualifying period to receive old age pensions is to hold at least 15 years of contributions (Law on State Social Insurance 1997; Law on State Pensions 1995<sup>22</sup>; Law on State Funded Pensions 2000).<sup>23</sup> The current retirement age in Latvia is 63. The legal retirement age is gradually increasing by 3 months per year until reaching 65 years in 2025.

In spite of the lobbying of diaspora organizations, different policy recommendations in the area of pensions were not included in the Diaspora Law (2018). The European Latvian Association (ELA 2017), for instance, proposed that the minimum pensions earned in other EU countries could be exempt from the income tax.<sup>24</sup> The current legislation stipulates that income tax should be paid for income from old age pensions (Income tax 1994; State Revenue Service 2015) and the non-taxable minimum was of 235 EUR per month in 2018. The European Latvian Association also emphasised the existence of discrepancies due to bilateral social security agreements<sup>25</sup> by which minimum pensions earned in the US and Canada are

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<sup>21</sup> Currently in the UK, commercial consultations for nationals abroad are provided by “Med Refund” ([medRefund.co.uk](http://medRefund.co.uk)). This organisation specialises in health care reimbursement within the EU. Latvian authorities are not involved in this business.

<sup>22</sup> Law on State Pensions. (1995). “*Par valsts pensijām*” 2/11/1995 Riga: Parliament of Latvia. Available <https://likumi.lv/doc.php?id=38048> Accessed 2 March 2019.

<sup>23</sup> Law on State Funded Pensions. (2000). “*Valsts fondēto pensiju likums*” 17/2/2000 Riga: Parliament of Latvia. Available <https://likumi.lv/doc.php?id=2341> Accessed 2 March 2019.

<sup>24</sup> Income tax. 2014. “Law on individual income tax” “*Par Iedzīvotāju Ienākuma Nodokli*” Riga: Parliament of Latvia 01/01/1994 Available <https://likumi.lv/doc.php?id=56880> Accessed 2 March 2019.

<sup>25</sup> Historically, in 1950s American Association of Latvians in the United States established a sub-unit of care, which is not a policy but an NGO initiative. It was primarily aimed at helping Latvians to provide mutual support. In the 1960s and 1970s when more and more World War II exiles reached pensionable age, its main focus was on pensioners, providing information on state and private pensions in the US. (Garozā C). The Latvian National Council in Great Britain and the Latvian Welfare Fund “*Daugavas Vanagi*” in the UK in 1950–1980s were providing support to war veterans, including care home possibilities. Currently, there are no specific activities and programmes related to pensions. It should be noted that it was time when Latvia was annexed to the USSR and no support was possible from Latvian state institutions.

exempt from this requirement, while pensions received from Russia and Ukraine are not taxed at all (ELA 2018, Latvia-US Convention 1998).<sup>26</sup>

Looking more precisely at those agreements with top destination countries, it is noteworthy that the Latvia-US Convention (1998) only envisages dual taxation avoidance that includes non-taxation of the minimum pension for Latvian nationals living in the US and vice versa. The Latvia-Russia agreement<sup>27</sup> goes more in depth as it includes provisions on portability and cumulation of pension contribution in both countries. However, the most important difference is that, in Russia, the contribution period can be with 10 years less than in Latvia. The implication is that people can qualify for old age pensions with fewer years spent in employment. Also, Russian citizens who receive pensions from Russia reach pensionable age at 60 (in 2017), while Latvian citizens who receive pensions from Latvia reach retirement at age of 63 (in 2017) and therefore can use benefits envisaged specifically for retired people earlier. Such benefits are provided by local municipalities (e.g., discounted prices for public transport in Riga).

Another relevant provision in the 1995 Law on State Pensions is related to the specific history of the Latvian diaspora. This legislation focuses on the repatriation of ethnic Latvians who were deported or escaped before 1990s, but not on contemporary emigrants. The law envisages social support for returnees who were imprisoned or deported to Soviet camps during and after World War II. Support includes the possibility to request a full pension 5 years earlier than an average pensioner, and time spent in camps are counted triple towards the accumulated work experience, while time spent in camps in the Far East of Siberia counts five time more. Pensions are indexed (gradually increased with coefficient 1.1 compare to the average old age pension). In case of those who were forced to work in German industries during World War II, compensations are provided by Germany, not the Latvian state.

Next to these public policies, during 1990s and early 2000s, the sub-unit of care of the American Association of Latvians in the US provided information on compensations granted to those exploited in Germany as foreign workers during World War II (so-called *Fremdarbeiter*) as Germany had set up a special fund to pay compensations to people who were exploited in industries, farm work, suffered body mutilation due to medical experiments or lost their children while being exploited in slave work. The American Association of Latvians in the United States gathered information from former workers in Germany who were residing in the US and submitted claims to the US based “International Migration Conference” (IMC)

<sup>26</sup>Latvia-US Convention. (1998). “Par Latvijas Republikas un Amerikas Savienoto Valstu konvenciju par nodokļu dubultās uzlikšanas un nodokļu nemaksāšanas novēršanu attiecībā uz ienākuma nodokļiem” Rīga: Parliament of Latvia 14/05/1998 Available <https://likumi.lv/doc.php?id=48313> Accessed 2 March 2019.

<sup>27</sup>Latvia- Russia Social Support Agreement. (2008). “Par Latvijas Republikas un Krievijas Federācijas līgumu par sadarbību sociālās drošības jomā” Rīga: Parliament of Latvia 22/10/2008. Available <https://likumi.lv/doc.php?id=182689> Accessed 2 March 2019.

which had a mandate to submit claims of American Latvians to the German fund (Garoza 2018, 144–145).

Lastly, in addition to the policies discussed above, consulates provide paid services to access archive information relevant to access pensions, but usually information is exchanged through the state social insurance institutions and the state revenue services in Latvia and the host country's institutions. While pensions are not the area of responsibility for consulates, in reality, many of them deal with pension issues in terms of preparation or certification of documents and providing information.

### 17.3.4 *Family-Related Benefits*

The main criteria for receiving all categories of benefits – such as birth grants, child benefits, parental leaves, family benefits – is a permanent residence of at least one parent in Latvia. The basic principle to qualify for family benefits from Latvia is the tax-financed universal scheme with flat-rate benefits that covers all permanent residents in Latvia (MISSOC 2017). Children must have received their personal identity number in Latvia, this number being granted upon registration in the Population Register, under the Office of Citizenship and Migration Affairs. This registration is not conditional on permanent or temporary residence or on nationality (MISSOC 2017). It means that children born abroad can obtain a personal identity number in Latvia and Latvian citizenship, but family benefits are not linked to this number or nationality. Family benefits are earmarked part of the personal income tax and the subsidy from the state budget (Law on State Social Benefits 2002<sup>28</sup>; Law on State Social Insurance 1997; Law on Maternity and Sickness 1995<sup>29</sup>). Family benefits are paid by the State Social Insurance Agency. According to the EU legislation, Latvian nationals living in the EU can receive family benefits from Latvia, but only if they qualify under these laws (parents have paid tax in Latvia) and only if they do not receive family benefits from any other state. For nationals residing in non-EU countries, family benefits are not paid from Latvia. There are no special programmes organised by diaspora institutions with respect to family benefits.<sup>30</sup>

Next to benefits, it is worth mentioning that the Society Integration Fund and the Latvian Language Agency organise summer camps for diaspora children in Latvia

<sup>28</sup>Law on State Social Benefits. (2002). “*Valsts sociālo pabalstu likums*” Rīga: Parliament of Latvia 31/10/2002 Available <https://likumi.lv/doc.php?id=68483> Accessed 2 March 2019.

<sup>29</sup>Law on Maternity and Sickness Insurance. (1995). *Likums “Par maternitātes un slimības apdrošināšanu”* Rīga: Parliament of Latvia 6/11/1995. Available <https://likumi.lv/doc.php?id=38051> Accessed 2 March 2019.

<sup>30</sup>Several emigrant initiatives have existed under the Association of World Free Latvians, the American Association of Latvians in the United States, the Latvian Welfare Fund in the UK or the Münster Latvian Secondary School in Germany in supporting summer camps, weekend schools and summer schools for Latvian families.



and give support for low-earning families of Latvians abroad in terms of paying for their travel expenses to and from Latvia (European Summer School 2015). However, this is not an established policy, but rather used on an ad-hoc basis when certain summer camps are organised.

In terms of consulates' intervention in this area, they deliver and renew birth certificates, passports and other documentation needed to obtain family benefits. Ordering these documents can be done via email and the documents can be sent by post.

### 17.3.5 Economic Hardship

Guaranteed minimum income benefit are usually available for those residing in Latvia, being distributed by local municipalities (Law on Social Services and Social Assistance 2002; No. 299; Regulations 2010; No. 5502009; No. 9132012<sup>31</sup>). Residence in Latvia is the main criteria to access this benefit. The benefit cannot be claimed by Latvian nationals residing abroad.

Consular departments are involved in crisis situations when a national abroad has been left without income or is homeless. However, there are no specific services in place to provide social support for homeless Latvian nationals abroad. Support is provided for the preparation of documents, getting in touch with relatives, representing a person in court if he/she cannot do it himself/herself. In emergency

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<sup>31</sup>Regulations 299. 2010. "Regulations on the Recognition of a Family or Person Living Separately as Needy, the Cabinet of Ministers," *"Noteikumi par ģimenes vai atsevišķi dzīvojošas personas atzīšanu par trūcīgu"* Riga: Cabinet of Ministers 30/03/2010. Available <https://likumi.lv/doc.php?id=207462>

Regulations 550. 2009. "Procedures for the Calculation, Granting, Disbursement of the Benefit for Ensuring the Guaranteed Minimum Income Level and for the Entering into an Agreement Regarding Participation," the Cabinet of Ministers. *"Kārtība, kādā aprēķināms, piešķirams, izmaksājams pabalsts garantētā minimālā ienākumu līmeņa nodrošināšanai un slēdzama vienošanās par līdzdarbību"* Riga: Cabinet of Ministers 17/06/2009. Available <https://likumi.lv/doc.php?id=193738>

Regulations 899. 2006. "On Procedures for the Reimbursement of Expenditures for the Acquisition of Medicinal Products and Medical Devices Intended for Out-patient Medical Treatment" *"Ambulatorajai ārstēšanai paredzēto zāļu un medicīnisko ierīču iegādes izdevumu kompensācijas kārtība"* 31/10/2006. Riga: the Cabinet of Ministers Available <https://likumi.lv/doc.php?id=147522>

Regulations 913. 2012. "Regulations of Guaranteed Minimum Income Level," *"Noteikumi par garantēto minimālo ienākumu līmeni"* Riga: Cabinet of Ministers 18/12/2012. Available <https://likumi.lv/doc.php?id=253731>

Regulations 299. 2010. "Regulations on the Recognition of a Family or Person Living Separately as Needy," *"Noteikumi par ģimenes vai atsevišķi dzīvojošas personas atzīšanu par trūcīgu"* Riga: Cabinet of Ministers 30/03/2010. <https://likumi.lv/doc.php?id=207462>

situations only, monetary support can be provided, although the amount should be paid back to the Latvian state.<sup>32</sup>

## 17.4 Conclusions

This chapter has shown that Latvia's engagement with citizens abroad presents two key features. On the one hand, its policies are shaped by the timing of emigration and the ethnicity of the expatriate population. On the other hand, public interventions in the area of social protection are overall rather limited.

Policy initiatives towards diaspora are relatively recent at the state level. They were not possible during the USSR (1945–1991), as the USSR ideology treated emigrants as traitors. Latvia has formulated its diaspora policy in 2010s with the Ministry of Foreign Affairs as the main coordinating institution. The main areas of work – civic and political engagement, Latvian identity, cooperation with the diaspora in business, science, education, and culture and return to Latvia – are only indirectly related to social protection via consulate information and services, and emergency support (Consular support n.d).

An additional peculiarity of the Latvian case is the way it treats the specific category of non-citizens. When Latvia regained independence in 1991, a citizenship policy was established, creating a group of non-citizens (former citizens of the USSR, mainly Russian-speaking), who had to go through the naturalisation process and prove that they speak Latvian. To this day, the right to free movement within the EU and political rights of non-citizens in Latvia are restricted. In addition, this group also faces restrictions to work in certain professions where fluency of Latvian and the Latvian citizenship are required (e.g., legal and state positions).

Whereas this chapter shows that, beyond social security agreements and the EU framework, Latvia's involvement in the area of social protection for citizens abroad is limited, a major exception concern its repatriation policy for those who left the country before 1990. This policy envisages unemployment benefits and pension support for returnees.

In terms of the ideology underpinning the recent evolution and directions of the Latvian diaspora policy, it is clear that initiatives and efforts form a mixture of support for culture (support for language and culture in weekend schools) and expansion of access to dual citizenship and investment (e.g. Economics and Innovation forum) where the diaspora is seen as potential resource for economic activities.

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<sup>32</sup>I reiterate that social and general diaspora support is usually carried out without direct or continuous state engagement. For instance, the Latvian Welfare Fund “Daugavas Vanagi,” Association of World Free Latvians and Association of Latvians in America, Münster Latvian Secondary school have been historically involved in providing ad hoc support for minimum resources or help in emergency situations. However, there are no special programmes with respect to guaranteed minimum resources nowadays. A research on youth mobility in London (YMOBILITY 2015) got in touch with an informal support group “LaLonda”, established by recent Latvian migrants in London, UK, voluntary providing help for homeless people, including from Latvia. However, there was no institutionalised programme related to homelessness.

Even though social protection has not received major policy attention from the Latvian authorities, the fact that diaspora policies have only recently become salient in Latvia mean that this could evolve in the future.

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# Chapter 18

## Diaspora Policies, Consular Services and Social Protection for Lithuanian Citizens Abroad



Dangis Gudelis and Luka Klimavičiūtė

### 18.1 Introduction

This chapter focuses on diaspora and consular policies developed by the Lithuanian authorities and their response to the social protection needs of citizens living abroad. The first part of the chapter presents the general institutional framework by which the Lithuanian authorities interact with the nationals residing in a foreign country as well as the main engagement policies for the diaspora. The second part focuses on the policies, programmes and services offered by the Lithuanian authorities to respond to the social protection needs of the nationals living abroad across five specific policy areas: economic hardship, unemployment, health care, pensions, and family-related benefits. Although Lithuania has been proactive in maintaining relations with its diaspora since 2011, there is a lack of social services for emigrants because of the public opinion that Lithuanians abroad are in a better financial position to contribute rather than benefit from the limited state budget.

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## 18.2 Diaspora Policy Infrastructure and Key Policies

### 18.2.1 *Lithuanian Diaspora and Relations with the Homeland*

The Lithuanian diaspora, which includes persons of the Lithuanian origin living outside of Lithuania, numbers 619,600 (i.e. 16.9% of the total population of Lithuania). The major countries of residence of Lithuanians are the United Kingdom (U.K, 19.9% of the total diaspora population), Russia (13.6%), Poland (10%), Canada (7.9%), Germany (7%), Ireland (6.4%), and the United States (U.S, 5.8%) (Department of Statistics of the Republic of Lithuania 2014).

Researchers identify three waves of emigration from Lithuania that resulted in the formation of the modern Lithuanian diaspora (Čiubrinskas 2005, p. 80). The first wave of emigration refers to those Lithuanians who moved from the Russian empire looking for a better life in the United States of America, Australia, or South America between the second half of the nineteenth century and the beginning of the twentieth century. This trend of emigration lasted until the first Soviet occupation in 1940. The Lithuanian diaspora of the first wave was active in social and cultural life: many Lithuanian societies, charities, and newspapers were established in this period of time. The diaspora contributed to building political, economic, and social institutions of the Republic of Lithuania during its Independence between 1918 and 1940.

The second wave of emigration from Lithuania started at the end of World War II. Many Lithuanians – mainly the political, economic, and cultural elite – migrated to escape the repressions of the Soviet regime. Until 1950, they were settled in refugee camps (displaced persons' camps) in the West Germany and after receiving immigration permits, many of them moved to the United States of America, Canada, Australia, or the United Kingdom. The major reason of the second wave of emigration was political, thus shaping the identity of this generation of the Lithuanian diaspora. Emigrants of that wave established political and civic organizations that played a significant role in the political processes leading to the restoration of Lithuania's independence in 1990.

In the last decade of the twentieth century, after the Restoration of Independence, the third wave of emigration from Lithuania was mainly due to economic reasons. This outflow intensified after Lithuania joined the European Union (EU) and the Schengen zone in 2004 and the major destination countries were the United Kingdom, Ireland, and Norway. During this third wave of emigration, mostly younger people decided to leave Lithuania (in 2013, 31.6% of emigrants were between 25 and 34 years old, and 26.3% emigrants were in the age group of 15–24 years) (Gudelis and Klimavičiūtė 2016, p.1). A recent survey (Vilmorus 2018) confirmed that many emigrants move abroad for economic reasons: 24% of the respondents moved for higher salaries or because they could not find work in Lithuania, while 15% cited better career prospects abroad. Nevertheless, roughly one out of five survey participants said they had moved for family reasons, 17% for studies and another 15% sought to change their lifestyle. Thus, non-economic reasons also play a role in migration decisions.

The economic nature of the third wave of emigration explains why social protection for emigrants is limited. Given that most migrants move to more affluent countries, in Lithuania they are perceived as a source of financial assistance rather than individuals in need. Many Lithuanian migrants also send remittances (Gudelis and Klimavičiūtė 2016), thus strengthening this image. This perception might be slowly changing: the Parliament of the Republic of Lithuania is considering a law that would provide assistance for people with Lithuanian heritage to return to Lithuania from countries that face instability such as Venezuela.<sup>1</sup>

### 18.2.2 Diaspora Infrastructure

To engage with the diaspora and respond to its needs, the Governments of the Republic of Lithuania established various institutions. The Ministry of Foreign Affairs (MFA), established in 1990, is the major institution responsible for diaspora engagement. Strengthening relationships with Lithuanians living abroad is one of the objectives set in MFA's statute.<sup>2</sup> The functions related to the implementation of this goal are executed by the Department of Lithuanians Living Abroad which is a structural division of the ministry.

Diplomatic missions and consular offices directly subordinated to the MFA also 'engage in cultivation and strengthening of relations between Lithuanians residing in the state concerned and Lithuania'.<sup>3</sup> Consulates provide consular services to Lithuanians living abroad. They issue documents confirming the civil status of Lithuanian citizens and provide material assistance in the event of a disease, injury, accident, or crime committed against Lithuanian citizens. They also organize voting from abroad in national, presidential, and European parliamentary elections, and referendums. Finally, consulates also issue temporary travel documents to those who lost their passports or personal identity cards.

A consultative body that operates at the government level is the Commission of the Coordination of Affairs of Lithuanians Abroad. Established in 2009, the Commission consists of the Prime Minister, the Chancellor and Deputy Chancellor of the Government, several ministers, the head of the Department of Physical Culture and Sport, the head of the Department of Lithuanians Living Abroad, the chairman of the board of the World Lithuanian Community (WLC, the main

<sup>1</sup>*Lietuvos Respublikos grįžimo įstatymo projektas* XIII-1130 [Proposed law for return XIII-1130]. *Lietuvos Respublikos Seimas*. 2017-09-21.

<sup>2</sup>*Lietuvos Respublikos Vyriausybės nutarimas dėl Lietuvos Respublikos užsienio reikalų ministerijos nuostatų patvirtinimo* Nr. 1155 [Resolution of the Government of the Republic of Lithuania on the Approval of the Statute of the Ministry of Foreign Affairs of the Republic of Lithuania No. 1155]. 1998. *Valstybės žinios*, 1998-09-30, No. 85-2378.

<sup>3</sup>*Lietuvos Respublikos diplomatinės tarnybos įstatymas* Nr. VIII-1012 [Law of the Republic of Lithuania on the Diplomatic Service No. VIII-1012]. 1998. *Valstybės žinios*, 1999-01-15, Nr. 7-140. *Lietuvos Respublikos Seimas* 1998-12-29.

non-governmental organization representing Lithuanian communities abroad), six representatives of the WLC and a representative of the WLC in Lithuania, a representative of the Association of Municipalities and a representative of the World Lithuanians' Youth Union.<sup>4</sup> The Commission submits proposals to the Government concerning strategic direction of state relations with Lithuanians living abroad. It also recommends how to implement the proposals, coordinates the actions of state institutions, and engages Lithuanians residing foreign countries in Lithuania's political, economic and cultural life. Finally, the Commission prepares drafts of legal acts related to Lithuanians living abroad or evaluates already existing drafts. The Government is not obliged to consult the Commission and the opinion of the Commission is not binding for the Government. It meets at least twice a year.

Another consultative body is the Commission of the Parliament of the Republic of Lithuania and the World Lithuanian Community which is the regular commission consisting of members of the Parliament and representatives of the WLC. The Commission meets twice a year and discusses issues relevant to Lithuanians residing abroad.

The Migration Information Centre (MIC) "I choose Lithuania" (lt. *Renkuosi Lietuvą*), established in 2015 by the Vilnius Office of the International Organization for Migration and funded from the state budget, using the method of *single point of contact*, provides consultations to Lithuanian migrants who are returning to Lithuania, thinking about a return or anyone wishing to come to Lithuania. The MIC provides information on education, labour market, healthcare, foreign family member integration and other issues related to returning to and living in Lithuania.

Three political parties – the Liberal Movement of the Republic of Lithuania, the Homeland Union-Lithuanian Christian Democrats, and the Labour Party – established divisions in other countries with the aim to engage Lithuanians residing abroad with political activities. However, other major political parties (including those that form the present ruling coalition) do not have such divisions.

### 18.2.3 Key Engagement Policies

In Lithuania, the major strategic document which formulates diaspora engagement policies is the Global Lithuania programme, adopted in 2011 by the Resolution of the Government of the Republic of Lithuania.<sup>5</sup> The programme sets five objectives:

<sup>4</sup> *Lietuvos Respublikos Vyriausybės nutarimas dėl Užsienio lietuvių reikalų koordinavimo komisijos sudarymo* Nr. 480 [Resolution of the Government of the Republic of Lithuania on the Establishment of the Commission of the Coordination of Affairs of Lithuanians Abroad No. 480]. 2018. TAR, 2018-05-22, Nr. 8209. *Lietuvos Respublikos Vyriausybė* 2018-05-16.

<sup>5</sup> *Lietuvos Respublikos Vyriausybės nutarimas Nr. 389 dėl "Globalios Lietuvos" – užsienio lietuvių įtraukimo į Lietuvos valstybės gyvenimą – kūrimo 2011–2019 metų programos patvirtinimo* [Resolution No. 389 of the Government of the Republic of Lithuania on the Approval of the "Global Lithuania" – Involvement of Lithuanians Residing Abroad into the Life of Lithuanian



(1) ensure that Lithuanians abroad maintain their cultural identity in times of globalization and protect the rights of Lithuanian minorities abroad; (2) encourage Lithuanians abroad to participate in Lithuania's political, economic, scientific, cultural, and sports life; (3) strengthen the relations with the Lithuanian diaspora, encourage return migration, and transform brain drain into brain circulation; (4) create a digital platform enabling Lithuanians living abroad to communicate with people in Lithuania and; (5) encourage the diaspora to spread information about Lithuania.<sup>6</sup>

Thirteen government agencies (including a few ministries and public agencies such as the Department of Physical Culture and Sport under the Government of the Republic of Lithuania, the Research Council of Lithuania, the National Radio and Television) are responsible for the implementation of this programme. Each year, the Government adopts an inter-institutional action plan for a 3 years specifying the activities and budget related to the programme's objectives.

The priority policy area for diaspora engagement in Lithuania is education. The Ministry of Education, Science, and Sports has a funding scheme targeted at Lithuanian schools abroad. This scheme is part of budgetary funding which is allocated by the Global Lithuania programme.<sup>7</sup> There are nine schools which provide formal primary and secondary education to Lithuanians residing abroad and seven European schools which teach the Lithuanian language. In total, 168 schools, located all around the world, provide non-formal Lithuanian education, organizing Lithuanian language and history classes on weekends. Legal regulations also set the framework to implement the following policies (SMSM 2019): (1) state support to Lithuanians residing abroad to study in higher education schools in Lithuania<sup>8</sup>; (2) distance learning from schools located in Lithuania; (3) distance learning courses for Lithuanian language; (4) general, formal and informal education to children of exiles of Lithuanian origin provided by the Vilnius Lithuanians' House; (5) an additional point for Lithuanians residing abroad who apply to pursue their bachelor's degree in Lithuania to allow them to score higher in the general ranking of applicants (Renkuosi Lietuvą 2019).

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State – Development Programme for the 2011–2019 Years Period]. 2011. *Valstybės žinios*, 2011-04-09, Nr. 42-1969. *Lietuvos Respublikos Vyriausybė* 2011-03-30.

<sup>6</sup>Ibid.

<sup>7</sup>*Lietuvos Respublikos Vyriausybės nutarimas dėl „Globalios Lietuvos“ – užsienio lietuvių įsitraukimo į valstybės gyvenimą – kūrimo 2011–2019 metų programos įgyvendinimo tarpinstitucinio veiklos plano patvirtinimo Nr. 1219* [Resolution of the Government of the Republic of Lithuania on the Approval of the Interinstitutional Action Plan of the “Global Lithuania” – Involvement of Lithuanians Residing Abroad into the Life of Lithuanian State – Development Programme for the 2011–2019 Years Period No. 1219]. 2011. *Valstybės žinios*, 2011-10-29, Nr. 130-6150. *Lietuvos Respublikos Vyriausybė* 2011-10-19.

<sup>8</sup>*Lietuvos Respublikos Švietimo ir mokslo ministro įsakymas dėl valstybės paramos užsienio lietuvių studijoms Lietuvos aukštosiose mokyklose skyrimo tvarkos aprašo patvirtinimo Nr. V-1160* [Order by the Minister of Higher Education and Science on the Approval of the Order of State Support to Lithuanians Residing Abroad to Study in Higher Education Schools in Lithuania No. V-1160]. 2016-12-27, TAR, 2016-12-29, Nr. 29930.

Economic policies designed to encourage the return of Lithuanian emigrants and their contributions to the economic development of the country also stand out as priority policy areas. The Ministry of Economy and Innovation and its subordinate public agencies Enterprise Lithuania and Invest Lithuania, together with social partners (e.g. NGO Global Lithuanian Leaders and others) implement a number of initiatives and projects, including the project GLL Business Advisors (encouraging Lithuanians residing abroad to advise companies and entrepreneurs in Lithuania), the Young Professionals Programme, Create Lithuania (inviting professionals with international experience to consult for public sector bodies) and the programme Work in Lithuania (encouraging Lithuanians living abroad to pursue a career in Lithuania). Finally, the annual conference Global Lithuanian Economic Forum, which brings together Lithuanians from all over the world with public authorities and independent experts to discuss the future of Lithuania, also contributes to the goal of economic progress.

The Government provides financial support (within the funding scheme of the Global Lithuania programme) to organizations of Lithuanians residing abroad, including youth organizations, preservation and return of Lithuanian cultural heritage from abroad. Projects for the dissemination of the idea of Global Lithuania in the area of culture, such as joint cultural initiatives of Lithuanians living abroad, are also funded from the state budget.

All non-resident Lithuanian citizens have the right to vote for national parliamentary and presidential elections as well as for referendums organized in the Republic of Lithuania. They are enrolled among the list of voters in the same territory in which the Parliament is located (in the case of parliamentary elections)<sup>9</sup> or in the list of voters from the Vilnius city municipality (in the case of presidential elections<sup>10</sup> and referendums<sup>11</sup>). Voters can cast a ballot in consulates of the Republic of Lithuania.<sup>12</sup> However, the law limits the right to vote and run for municipal elections because the lists of voters are made by municipalities according to the declared place of residence.<sup>13</sup> Only those who permanently reside in Lithuania (have been staying in Lithuania for the past 90 days) can run as candidates.<sup>14</sup> The right of Lithuanian citizens residing abroad to run for the office of the President is also

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<sup>9</sup> *LR Seimo rinkių įstatymas* Nr. I-2721, 1992-07-09, *Lietuvos Aidas*, 1992-07-18, Nr. 139-0 [The Law on Elections of the Seimas of the Republic of Lithuania], the section No.33.

<sup>10</sup> *LR Prezidento rinkimų įstatymas* Nr. I-28, 1992-12-22, *Lietuvos Aidas* 1992-12-29, Nr. 253-0 [The Law on Elections of the President of the Republic of Lithuania], the section No. 32.

<sup>11</sup> *LR Referendumo įstatymas* Nr. IX-929, 2002-06-04, *Valstybės žinios*, 2002-06-26, Nr. 2570 [The Law on Referendum of the Republic of Lithuania], section No. 41.

<sup>12</sup> *Ibid.*, section No.70.

<sup>13</sup> *LR Savivaldybių tarybų rinkimų įstatymas* Nr. I-532, 1994-07-07, *Valstybės žinios*, 1994-07-13, Nr. 53-996 [The Law on Elections of Councils of Municipalities of the Republic of Lithuania], section No. 3.

<sup>14</sup> *Ibid.*, section No. 3.

limited: only those who have been staying in the territory of Lithuania for the past 3 years can do so.<sup>15</sup>

## 18.3 Diaspora Policies and Social Protection in Lithuania

Neither the Global Lithuania programme nor other strategic documents of the Government of Lithuania include policies focused on social protection of Lithuanians residing abroad. The absence of such a policy orientation is caused by the prevailing approach toward emigrants as potential providers of financial support rather than those who would need social assistance. Also, such policies are out of the agenda as the opportunities of the Lithuanian state to implement welfare policies in general are limited because of the relatively small public sector (government revenues and expenditures as the percentage of gross domestic product are among the lowest in the EU<sup>16</sup>).

Lithuanian consulates are mainly the only agencies which play a role in ensuring that Lithuanians living abroad are able to access social protection. Consulates provide information on how to access health care, pension, and family benefits and actively facilitate the exchange of necessary documents to claim these provisions. The Government does loan money in cases of death when the deceased have to be repatriated back to Lithuania. Consulates do not, however, provide any assistance in cases of unemployment, homelessness, or economic difficulties. No publicly-funded diaspora institutions exist to provide assistance in the area of social protection. Other government institutions including ministries, play a role mostly through bilateral agreements, which simplify the rules for Lithuanian nationals residing in Russia and other countries to access social security benefits. Most of these treaties were signed after the collapse of the Soviet Union. Therefore, they reflect shared histories between the signatories rather than locations where most of the Lithuanian diaspora live.

### 18.3.1 Unemployment

Lithuania does not implement any policies directed to Lithuanians residing abroad in the area of unemployment. Only residents of Lithuania are eligible for unemployment benefits. If a person who is eligible for unemployment benefits declares his/her departure from Lithuania, he/she loses the status of the unemployed person and the right to receive unemployment benefits in Lithuania, with the exception of the

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<sup>15</sup>The Law on the Elections of the President, section No. 2.1.

<sup>16</sup>Government revenue, expenditure, and main aggregates. Eurostat. Last update: 21-01-2019. <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>

term foreseen in the EU regulations on the coordination of social security systems.<sup>17</sup> In order to receive unemployment benefits in Lithuania, one has to register at the territorial division of the Lithuanian Labour Exchange. For those who receive unemployment benefits while residing and seeking a job in the EU, Lichtenstein, Iceland, Norway, or Switzerland (in the cases prescribed by the EU Regulation No. 883/2004<sup>18</sup>), consulates of the Republic of Lithuania do not play any role assisting these persons to receive unemployment benefits from Lithuania.

### 18.3.2 Health Care

Before looking at the openness of the Lithuanian healthcare systems towards citizens abroad, it is important to note that consulates assist Lithuanians residing abroad in two main areas: emergency situations and access to disability payments. According to the Consular Statute,<sup>19</sup> in cases of natural disasters, acts of terror, mass riots, war, and armed conflict, consulates have the mandate to help with the evacuation of Lithuanian nationals. In 2006, 26 Lithuanian nationals and their family members were evacuated from Lebanon when the war broke out there. Another evacuation took place in Georgia in 2008 (CARE 2010, 311). Although instances of kidnapping are not covered by the statute, in 2009, the Government also negotiated the release of five Lithuanians who were taken hostage off the ship close to the Nigerian coast (CARE 2010, 311). In addition to evacuations, consulates assist victims of violent crimes with obtaining the necessary medical, legal and translation services.<sup>20</sup>

Regarding emergency situations, Article 22 of the Consular Statute provides that Lithuanian citizens abroad are entitled to financial assistance from the state. The assistance includes funds for a person to return to Lithuania or to support oneself until repatriation is medically advisable. Any financial support must be reimbursed within 3 months of its issuance.<sup>21</sup> Support is not provided in cash, but is instead

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<sup>17</sup> *Lietuvos Respublikos užimtumo įstatymas* Nr. XII-2470 [Law of the Republic of Lithuania on Employment No. XII-2470]. 2016. TAR, 2016-07-05, Nr. 18825. *Lietuvos Respublikos Seimas* 1998-12-29, section No. 4.12.

<sup>18</sup> Regulation No. 883/2004 of the European Parliament and of the Council of Europe on the coordination of social security systems. 29 April 2004. Text with relevance for the EEA and for Switzerland.

<sup>19</sup> *Lietuvos Respublikos konsulinis statutas* Nr. I-886. [Consular Statute of the Republic of Lithuania No. I-886]. 1995. *Valstybės žinios* 1995-05-09, Nr. 43-1047. *Lietuvos Respublikos Seimas* 1995-05-09.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*, Article No.22.

given to service providers.<sup>22</sup> Consular officers determine the minimal amount needed based on the information provided by the claimant.<sup>23</sup>

It is important to note that the Lithuanian Government funds repatriations in cases unrelated to health. Specifically, since 2002, the Government has been repatriating political prisoners and exiles who moved during the Soviet occupation from the territories of the former Soviet Union to Lithuania. Measures of social support to these persons include housing, compensation of travel costs and social integration. Each year, financial resources are allocated for the implementation of this policy (e.g., 432,000 euros each for 2018, 2019, and 2020).<sup>24</sup>

In cases of death, consulates are authorized to provide the support in terms of obtaining the necessary documentation for the transportation of the remains. Municipalities where the diseased has lived bear the financial burden for the transportation costs, but only if the person was not insured and if the person's relatives by law are from low-income households. Low-income households are defined as those whose average monthly income is lower than three sizes of the guaranteed state support.<sup>25</sup> The support is provided to the physical person requesting assistance.

When it comes to disability payments, the Consular Statute does not mention them specifically but paragraph 36 notes that consulates will assist Lithuanians living abroad with the submission and notarization of appropriate forms to receive pensions, which include disability pensions. According to paragraph 32, consular officers are also expected to meet the persons in their homes if disability or medical conditions prevent them from arriving at the consulate.<sup>26</sup> Disability pensions are calculated differently for Lithuanians living in the EU and non-EU countries.<sup>27</sup> In the EU or countries with which Lithuania has ratified international agreements, work experience acquired in Lithuania and abroad is summed when calculating total disability pensions. If recipients work in non-EU countries, their disability payments are based solely on work experience in Lithuania.

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<sup>22</sup> *Įsakymas Dėl Valstybės materialinės pagalbos Lietuvos Respublikos piliečiams, nukentėjusiems užsienio valstybėse, teikimo ir grąžinimo tvarkos aprašo patvirtinimo V-146* [Order regarding state financial assistance to the citizens of the Republic of Lithuania V-146]. 2018. TAR, 2018-06-11, Nr. 9670. *Lietuvos Respublikos užsienio reikalų ministerija* 2018-06-05.

<sup>23</sup> *Ibid.*

<sup>24</sup> *LR Socialinės apsaugos ir darbo ministro įsakymas dėl politinių kalinių ir tremtinių bei jų šeimų narių sugrįžimo į Lietuvą 2018–2020 metų veiksmų plano patvirtinimo*, Nr. A1-447, 2017, TAR, 2017-09-18, Nr. 14777 [Order of the Minister of Social Protection and Labour on Affirmation of The Action Plan of the Repatriation of Political Prisoners and Exiles and Members of Their Families To Lithuania for Years 2018–2020, No. A1-447, 2017, TAR, 2017-09-18, Nr. 14777].

<sup>25</sup> *Lietuvos Respublikos paramos mirties atveju įstatymas* Nr. I-348 [Law of the Republic of Lithuania on the Assistance in the Case of Death No. I-348]. 1993. *Valstybės žinios*, 1993-12-29, Nr. 73-1371. *Lietuvos Respublikos Seimas* 1993-12-23, the section No. 7.1.

<sup>26</sup> Consular Statute No. I-886 of the Republic of Lithuania, 1995.

<sup>27</sup> *Lietuvos Respublikos socialinio draudimo pensijų įstatymas* Nr. I-549 [Republic of Lithuania Law on Social Insurance Pensions No. I-549]. 1994. *Valstybės žinios*, 1994-08-03, Nr. 59-1153. *Lietuvos Respublikos Seimas* 1994-07-18.

Another distinction between the EU and non-EU residents exists in the provisions of student health insurance. According to the Health Insurance Law,<sup>28</sup> full-time students in institutions of higher education in other EU countries are entitled to health insurance provided by the Lithuanian state. Health insurance is not provided to students outside of the EU.

It is important to note that national health insurance in Lithuania functions as a mechanism to enforce the declarations of residencies outside Lithuania. According to the Lithuanian legislation, people going to live abroad for longer than 6 months were required to declare about their departure from 1998 to 2009.<sup>29</sup> In 2009, the Lithuanian Government established rules that all residents shall be billed individually for health insurance rather than pay for national insurance as part of income tax. Therefore, emigrants who fail to report their departure begin accumulating health insurance debt to the state (although departure can also be declared retrospectively with proof of when the move occurred), motivating citizens to declare their actual place of residence. Whereas the issue of non-declaration of residence has been noted in many chapters in this book, Lithuania stands out as one of the states that has actively tried to prevent citizens abroad to remain covered by their home country health insurance.

The Global Lithuania programme targets the diaspora's health needs, mostly in the form of information provision.<sup>30</sup> The Ministry of Health provides health-related information to the Lithuanian diaspora on the Ministry's website (SAM 2018). As part of the programme, the Ministry of Social Security and Labour coordinates psychological counselling for returning emigrants. In 2017, 28 consultations were held (URM 2017).

Finally, the website of the project *Renkuosi Lietuvą* (I Choose Lithuania) provides relevant, frequently asked information. For example, it explains whether a person can obtain health insurance in one country but be treated in another. The website details useful information on how to avoid national health insurance debt. The portal is also useful for those who come to Lithuania on short visits and have to access basic health care services. In addition to publishing the information online, project coordinators enable individuals to submit questions or call by phone or Skype (Renkuosi Lietuvą 2019).

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<sup>28</sup> *Lietuvos Respublikos sveikatos draudimo įstatymas* Nr. I-1343 [Republic of Lithuania Health Insurance Law No. I-1343]. 1996. *Valstybės žinios*, 1996-06-12, Nr. 55-1287. *Lietuvos Respublikos Seimas* 1996-05-21, the section No. 6.4.7.

<sup>29</sup> *Lietuvos Respublikos gyvenamosios vietos deklaravimo įstatymas* VIII-840 [Law regarding the declaration of the place of residency of the Republic of Lithuania VIII-840]. 2018. *Valstybės žinios*, 1998-07-24, Nr. 66-1910. *Lietuvos Respublikos Seimas* 1998-07-02.

<sup>30</sup> Resolution No. 389 of the Government of the Republic of Lithuania on the Approval of the "Global Lithuania" – Involvement of Lithuanians Residing Abroad into the Life of Lithuanian State – Development Programme for the 2011–2019 Years Period, 2011, the section No. 23.

### 18.3.3 Pensions

The website of the Lithuanian Social Insurance Agency SODRA details the procedure to receive pensions while living abroad. When individuals move abroad, they are obliged to declare their departure and inform SODRA within 10 days from leaving. After submitting a request to receive pension payments abroad, these individuals are paid either in euros, or in the local currency of the country where they live if Lithuania has signed a bilateral agreement with that country. These countries include the United States of America, Canada, Belarus, and Russia. Lithuania has also a bilateral agreement with Ukraine but it transfers pension funds to the Ukrainian pension agency in euros, after which the responsible Ukrainian agency issues the pension in the local currency, hryvnia. Lithuanians in Poland also receive pensions in local currency, zloty. If a person lives in Moldova, he/she can receive a pension in euros. Pension recipients do not pay transfer fees but cover any expenses associated with the deposit of funds in their banking accounts (SODRA 2018).

Similarly as with disability benefits, consulates facilitate the receipt of pensions for Lithuanian nationals living abroad. Consulates provide information and assist with the submission and notarisation of the required documentation.<sup>31</sup> If persons are entitled to the Lithuanian pension, they must submit a certificate, showing their place of residence. The certificate has to be renewed once a year, between the months of October and December. It can be signed by the host country institution responsible for pension provisions, a public notary in the host country or a consular officer of Lithuania. The pension recipient may submit the certificate to the Foreign Benefit Office (*Užsienio išmokų tarnyba*), SODRA, or the agency in the host country responsible for pensions.<sup>32</sup>

In Russia, Germany, Austria, Belarus, Ukraine, and Canada, Lithuanian nationals can address only the host country's pension agencies (SODRA 2018). In Russia, this is because the responsibility for pension payments is transferred from the Lithuanian to the Russian authorities who will continue to make pension payments.<sup>33</sup> Although Russia is not part of the EU, the 1999 treaty establishes that totalisation of work experience acquired in Lithuania and Russia when calculating

<sup>31</sup> Consular Statute No. I-886 of the Republic of Lithuania, 1995.

<sup>32</sup> *Lietuvos Respublikos socialinės apsaugos ir darbo ministro įsakymas dėl socialinio draudimo pensijų skyrimo ir mokėjimo nuostatų patvirtinimo* Nr. A1-670 [Order by the Minister of Social Security and Labour of the Republic of Lithuania concerning the payment rules of social insurance and pensions, No. A1-670]. 2017. TAR, 2017-12-27, Nr. 21333. *Lietuvos Respublikos socialinės apsaugos ir darbo ministerija* 2017-12-27.

<sup>33</sup> *Lietuvos Respublikos Vyriausybės ir Rusijos Federacijos Vyriausybės susitarimas dėl pensinio aprūpinimo* [Treaty between the Republic of Lithuania and the Russian Federation regarding pension provisions]. 1999. *Valstybės žinios*, 2000-03-08, Nr. 20-496. Signed 1999-06-29.

pension provisions. Similar rules are established in treaties with Canada,<sup>34</sup> Belarus,<sup>35</sup> and Ukraine.<sup>36</sup> Other than these exceptions, pensions are summed only for EU residents.<sup>37</sup> Pension authorities in two major EU destination countries – Austria and Germany – require all workers to address only their respective national pension agencies when submitting the life certificate rather than agencies in Lithuania based on EU Regulation No. 883.<sup>38</sup> Consulates and other Lithuanian state institutions do not assist Lithuanian nationals accessing pension benefits provided by host countries.

In addition to consulates, other government-funded agencies also provide information on pension-related questions. The *Renkuosi Lietuvą* (I Choose Lithuania) website gives instructions on how to acquire form E 104, which serves as proof of work experience acquired abroad, as well as examples of foreign agencies responsible for its issuance such as HM Revenue and Customs in the UK. The website also explains when people begin acquiring pensions if they worked both in Lithuania and abroad, how the pension will be paid, and whether people will receive their pensions upon returning to Lithuania (Renkuosi Lietuvą 2019).

### 18.3.4 Family-Related Benefits

Although the state of Lithuania provides monetary family benefits, Lithuanians living abroad are not eligible recipients if they do not reside in Lithuania. Nevertheless, even those outside the country's territory can have their marriages and births recognized by the Lithuanian state. A child born to Lithuanian parent(s) abroad receives a birth certificate in the country where he/she was born. In order to register the child in the Lithuanian registry and receive a passport (any child born to a Lithuanian parent is automatically granted Lithuanian citizenship), parents must submit to the nearest consulate: (1) a form requesting the child be included in the national registry; (2) a form for the transfer of personal documents; (3) foreign birth certificate;

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<sup>34</sup>*Lietuvos Respublikos ir Kanados sutartis dėl socialinės apsaugos* [Treaty between the Republic of Lithuania and Canada regarding social security]. 2005. *Valstybės žinios*, 2005-12-08, Nr. 143-5186. Signed 2005-07-05.

<sup>35</sup>*Lietuvos Respublikos ir Baltarusijos Respublikos sutartis dėl socialinės apsaugos* [Treaty between the Republic of Lithuania and the Republic of Belarus regarding social security]. 1999. *Valstybės žinios*, 1999-07-14, Nr. 61-1979. Signed 1999-02-04.

<sup>36</sup>*Lietuvos Respublikos ir Ukrainos sutartis dėl socialinės apsaugos* [Treaty between the Republic of Lithuania and Ukraine regarding social security], 2001-04-23, *Valstybės žinios*, 2001-11-07, Nr. 93-3261.

<sup>37</sup>*Lietuvos Respublikos socialinio draudimo pensijų įstatymas* Nr. I-549 [Republic of Lithuania Law on Social Insurance Pensions No. I-549]. 1994. *Valstybės žinios*, 1994-08-03, Nr. 59-1153. *Lietuvos Respublikos Seimas* 1994-07-18.

<sup>38</sup>Regulation No. 883 of the European Parliament and of the Council of Europe on the coordination of social security systems, 29 April 2004.



(4) the child's passport in case s/he holds another citizenship; (5) marriage certificate; and (6) parents' passports or national personal identity cards.<sup>39</sup>

The foreign birth certificate and marriage certificate must be ratified with *Apostille* unless the child was born in the EU, Ukraine,<sup>40</sup> Russia,<sup>41</sup> or Moldova.<sup>42</sup> With each of these countries, Lithuania has a bilateral agreement which establishes that any documents held official in one state are also held official in the other without any additional certification. These agreements make it possible for Lithuanians living in the listed countries to submit child registration documents without the *Apostille* notarization. After receiving the consular and postage fees, consulates send the documents to appropriate institutions in Lithuania and contact the parents once documents are returned.

In addition to assistance with the receipt of children's passports, consulates help Lithuanians abroad get their marriages and divorces recognized in Lithuania, and to have their names changed. The procedures are similar to the process of registering a child, and are outlined on consulates' websites (for example, see the Embassy of the Republic of Lithuania to the Kingdom of Denmark 2018). However, neither consulates nor other government institutions assist Lithuanian nationals with accessing family benefits from host countries.

The *Renkuosi Lietuvą* (I Choose Lithuania) portal provides Lithuanians abroad with information on how their maternity or paternity benefits will be counted if they return to Lithuania after working abroad. The website also gives details on how to fill out the form E 411, which is necessary to determine which country is responsible for providing family benefits (Renkuosi Lietuvą 2019).

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<sup>39</sup> *Lietuvos Respublikos teisingumo ministro įsakymas dėl civilinės būklės aktų registravimo taisyklių ir civilinės būklės aktų įrašų ir kitų dokumentų formų patvirtinimo* Nr. 1R-334 [Order by the Minister of Justice of the Republic of Lithuania regarding the rules of civil status registration or confirmation of other forms related to civil status No. 1R-334]. 2016. TAR, 2016-12-28, Nr. 29,705. *Lietuvos Respublikos teisingumo ministerija* 2016-12-28.

<sup>40</sup> *Lietuvos Respublikos ir Ukrainos sutartis dėl teisinės pagalbos ir teisinių santykių civilinėse, šeimos ir baudžiamosiose bylose* [Treaty between the Republic of Lithuania and the Ukraine regarding legal assistance and legal relations in civil, family, and criminal cases]. 1993. *Valstybės žinios*, 1994-11-25, Nr. 91-1767. Signed 1993-07-07.

<sup>41</sup> *Lietuvos Respublikos ir Rusijos Federacijos sutartis dėl teisinės pagalbos ir teisinių santykių civilinėse, šeimos ir baudžiamosiose bylose* [Treaty between the Republic of Lithuania and the Russian Federation regarding legal assistance and legal relations in civil, family, and criminal cases]. 1992. *Valstybės žinios*, 1995-02-10, Nr. 13-296. Signed 1992-07-21.

<sup>42</sup> *Lietuvos Respublikos ir Moldovos Respublikos sutartis dėl teisinės pagalbos ir teisinių santykių civilinėse, šeimos ir baudžiamosiose bylose* [Treaty between the Republic of Lithuania and Republic of Moldova regarding legal assistance and legal relations in civil, family, and criminal cases]. 1993. *Valstybės žinios*, 1995-03-03, Nr. 19-440. Signed 1993-02-09.

### ***18.3.5 Economic Hardship***

Beyond the emergency loans mentioned above, in cases of economic difficulties or homelessness, the state of Lithuania does not provide financial, material or any other assistance to Lithuanians residing abroad. Although diaspora organizations engage in charitable activities to assist both Lithuanians in living within and outside the country (Gudelis et al. 2015), these activities are not publicly funded.

## **18.4 Conclusions**

The Government of the Republic of Lithuania has established an institutional infrastructure to implement educational, economic, cultural, and social policies for Lithuanians abroad. These policies respond to the challenges and opportunities presented by emigration and aim to protect the rights of its citizens abroad.

However, social protection of Lithuanians residing abroad is not a priority policy area for the Government of Lithuania. The Global Lithuania programme, the main strategic document shaping the Lithuanian diaspora engagement policies, does not include objectives related to the social protection of Lithuanians abroad. No publicly-funded diaspora institutions exist to provide assistance in the area of social protection. Lithuanian citizens are not eligible recipients of family, unemployment, and economic hardship benefits if they do not reside in Lithuania. This residence-based welfare system has been further reinforced by the changes in the national health insurance system which – unlike what is observed in many cases discussed in this book – pushes citizens abroad to change their residence after departure. These policy choices are a result of the view that many migrants are financially better off in high-income destination countries than in Lithuania.

Some social services for Lithuanians living abroad are provided by consulates. In cases of an injury, disease, accident, or crime committed against a citizen of the Republic of Lithuania, consulates provide the material assistance to cover expenses of the necessary medical aid, travel to Lithuania, and accommodation which has to be reimbursed later. They also facilitate the receipt of pensions for Lithuanian nationals abroad. In the area of healthcare, consulates assist Lithuanians abroad in emergency situations and with access to disability payments. However, in cases of unemployment, homelessness, or economic difficulties, the assistance is not provided to Lithuanians living abroad.

The issue of social protection of Lithuanians residing abroad has never been raised neither by public media nor by political parties or the World Lithuanian Community, although it was discussed in some policy and academic texts (Gudelis et al. 2012, 2015). The issue might be included into the agenda of policy makers in the future for further advancement of the welfare state in Lithuania.

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# Chapter 19

## Diaspora Policies, Consular Services and Social Protection for Luxembourgish Citizens Abroad



Nathalie Perrin

### 19.1 Diaspora Characteristics and Home Country Engagement

This chapter provides an overview of the diaspora policy infrastructure and spells out the initiatives developed by the Luxembourgish authorities to support in particular their nationals living abroad. It also highlights some specificities of the Luxembourg context that allow many Luxembourgers to benefit from the national social security system beyond the confines of the border. Indeed, among the European Union (EU) Member States, Luxembourg is the country with the highest proportion of its workforce commuting from and to neighbouring countries (Fries-Tersch *et al.* 2018, 86). Consequently, several social protection policies developed by the Luxembourg authorities specifically target cross-border workers of whom a significant share are Luxembourgish nationals (Clement 2015, 803-817).

#### 19.1.1 *The Luxembourgish Diaspora and its Relation with Homeland*

While Luxembourg hosts many foreigners nowadays, until the mid-twentieth century it was, due to the poverty of its residents, a country characterised mainly by emigration. Luxembourgish historians highlight a first significant wave of emigration to Transylvania in the twelfth century and a second to Banat, a region in contemporary Romania, during the first half of the eighteenth century (Scuto 2010).

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During the nineteenth century and up to World War I, many Luxembourgish emigrants set their sights on the American continent, heading especially to the United States, Brazil, and Argentina (Wey 2002). The large pieces of land still available in the New World drew Luxembourgish peasants in particular (Scuto 2010). The vast majority, however, decided to settle in France (Reuter 2002). Overall, more than 72,000 Luxembourgers are estimated to have left the country from 1841 to 1891 (out of a total population of 212,800 in 1891).

Population census analysis shows a definite shift in the migration balance after World War II (STATEC 1990), due to the economic growth and an influx of Italian and Portuguese immigrants during the 1950s and 1960s, respectively. Today, the Grand Duchy of Luxembourg continues to welcome migrants, a practice that has a significant impact on its population growth. For example, between 2010 and 2019, the number of inhabitants rose by 22%.

On 1 January 2019, the Grand Duchy counted 613,894 inhabitants, 47% of whom have a foreign origin. Even though the National Registry of Natural Persons (*Registre national des personnes physiques*, RNPP) reports that 170 different nationalities are represented, 85% of all inhabitants are EU nationals. The most commonly found nationalities are Portuguese (15.6%), French (7.6%), Italian (3.7%), Belgian (3.3%), and German (2.1%). The largest non-EU communities are comprised of nationals originating from China (3714 individuals, 1.8%), Montenegro (3589, 1.2%), and Cape Verde (2621, 0.9%) (STATEC 2019).

Concerning the Luxembourgish diaspora, on 30 April 2018, the RNPP reported 61,300 Luxembourgish nationals living in 57 countries around the world. Of those, 87% resided in an EU Member State, with most of them (80%) registered in a neighbouring country: 18,793 in Belgium, 16,600 in France, and 14,156 in Germany. Outside the EU, the largest communities of Luxembourgers are located in the United States (2655 nationals), Switzerland (2070), Brazil (1658), Canada (354), and Argentina (185).

### 19.1.2 *Diaspora Infrastructure*<sup>1</sup>

The Ministry of Foreign and European Affairs (MFEA) coordinates the Government's action outside the country. It endeavours to promote a coherent approach in terms of diplomacy, defence, development, and immigration while simultaneously supporting strategic interests abroad in the political, economic, cultural, and consular

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<sup>1</sup>Luxembourg has three national languages: French, German, and Luxembourgish. With the administrative language being historically French, most of the administration and institutions based in Luxembourg are known under their French names and/or acronyms. However, these last years, Luxembourgish is gaining popularity at the political level, which has had an impact on the naming of recent policies, projects, and institutions. In this chapter, after their translation in English, the most common names and acronyms will be mentioned in their original language(s); that is in French and/or in Luxembourgish.

realms. To do so, the MFEA is organised into one general secretariat and eight directorates, one of which is dedicated explicitly to consular issues.

Created in 2016, the Directorate of Consular Affairs and International Cultural Relations (later called “Directorate”) took over some tasks previously devoted to the Directorate of Protocol and the Chancellery. The latter remains responsible, among others, for the accreditation of the ambassadors and the administrative management of the diplomatic corps. The Directorate provides consular assistance to Luxembourgers facing difficult situations abroad. Within the Directorate, the Passport, Visa and Legalisation Office issues passports and apostille certificates, and is tasked with the legalisation of those documents issued by the Luxembourg authorities for submission to foreign countries’ public bodies.

To provide its assistance, the Directorate relies on a network of embassies and consulates. By the end of 2017, this network consisted of 37 diplomatic and consular missions, including 29 bilateral embassies, five permanent representations to international organisations, and three consulates general. Luxembourg is accredited to more than 70 countries by resident or non-resident ambassadors, officiating either from diplomatic missions or directly from Luxembourg itself.

Its consular corps totalled six career consul-generals located in Brussels, Shanghai, New York, San Francisco, Strasbourg, and Geneva; eleven consuls and six vice-consuls working in consular sections of the embassies; 147 honorary consuls and eight honorary consul-generals. The honorary consuls are not always Luxembourgish nationals, but may be persons who benefit from a broad professional network in their host country. Their primary task is to inform and advise Luxembourgish companies on business opportunities. However, depending on the gravity of the situation, they may equally provide consular assistance to Luxembourg nationals and their family members, either out of their own initiative or upon authorisation by the MFEA or the diplomatic mission to which they are attached.

MFEA does not rely on mobile consulates in countries and regions where it has no diplomatic or consular missions. In non-serviced countries, it urges Luxembourgers to contact the Belgian mission when assistance is required. The Convention on Consular Cooperation between Luxembourg and Belgium of 30 September 1965 codifies this collaboration.<sup>2</sup> Concluded before the entry into force of the Maastricht Treaty, it provides a wider scope of assistance than foreseen under Council Directive 2015/637. The absence of representation in a region suffices to activate protection. Moreover, Belgian consular assistance is the default in case a Luxembourgish diplomatic or consular post is (temporarily) vacant. In countries where Luxembourg is not represented, Luxembourgers can apply for a passport at a Belgian diplomatic or consular mission. Passports issued by a Belgian diplomatic representation are temporary, however, and only valid for a year.

According to an opinion drafted by the Commission for Foreign and European Affairs, Defence, Cooperation and Immigration (2007), cooperation in the field of consular protection also exists with France and Germany, even though a legal basis

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<sup>2</sup>Approved by the Law of 16 August 1966 (*Mémorial* A51, 21/09/1966)

akin *Mémorial* A51 remains absent. This assistance is only provided on an individual and discretionary basis. Moreover, for Luxembourg nationals who would need consular assistance outside office hours or during the weekend, the MFEA has settled a dedicated switchboard.<sup>3</sup>

The Directorate, cooperatively with the Ministry of Culture, also promotes Luxembourgish culture through its diplomatic network. For that purpose, it can make use of several ‘Houses’ of the Grand Duchy of Luxembourg, which are managed by the diplomatic posts. These are located in Berlin, New York, Tokyo, Warsaw, and London. Their mission is to highlight, and to an extent export, the cultural dimension of the country through different events (exhibitions, concerts, conferences...). In 2017, the ‘Houses’ shared a common budget of €146,000, which allowed them to carry out or associate with a hundred or so activities (MFEA 2017, p. 31). Another important body is the ‘Cultural Mission of Luxembourg’ (*Mission culturelle du Luxembourg*) set up in 2009 and run in collaboration with the Embassy of Luxembourg in Paris.

To better promote its commercial activities abroad, Luxembourg relies on 20 foreign trade advisers represented in the following countries: Germany, Canada, China, United Arab Emirates, United States of America, France, Indonesia, Iran, Italy, Kuwait, Laos, Lebanon, Russia, Singapore, Switzerland, and Vietnam. Each works in collaboration with the Chamber of Commerce (*Chambre de Commerce*), which endeavours to help Luxembourgish companies to develop and expand their business abroad.

### 19.1.3 Key Engagement Policies

The Grand-Ducal Regulation of 29 June 1923, regulating the consular service and introducing some taxes to be levied by agents of the consular corps,<sup>4</sup> combined with the Law of 15 November 1971, translating the Vienna Convention on Consular Relations into domestic Luxembourg legislation,<sup>5</sup> constitute the legal basis for consular assistance. Competencies required for and duties of consuls and diplomats are likewise set out in various internal guidelines not publicly available. Consular assistance originates in policy and, hence, is not a right as such. Article 16 of the Regulation of 1923 states that the consuls “owe help and protection to Luxembourgers

<sup>3</sup>Phone number +352247-82300.

<sup>4</sup>*Mémorial* A31, 06/07/1923. As modified by Grand-Ducal Regulation of 15 May 2018 (1) amending the Grand-Ducal Decree of 29 June 1923 regulating the consular service and introducing some taxes to be collected by the agents of the consular corps; and (2) repealing the Grand-Ducal Regulation of 27 May 1997 implementing the Decision of the Representatives of the Governments of the Member States, gathered within the Council, of 19 December 1995 concerning the protection of the citizens of the European Union by diplomatic representations and consular (*Mémorial* A393, 22/05/2018).

<sup>5</sup>Approved by the Law of 15 November 1971 (*Mémorial* A83, 03/12/1971)



travelling or residing abroad, and to their family members, as far as possible". The assistance is discretionary and based on *ad hoc* decisions, contingent in full on the specific circumstances and degree of vulnerability of the national(s) requiring help.

Article 37bis, as amended by Article 3 of the Regulation of 2018, lists scenarios in which consuls can render assistance. These include: arrest or detention; being a victim of a crime or an offence; accidents or serious illness; deaths; aid and repatriation in emergency situations; and the need for temporary travel documents as provided for in Decision 96/409/CFSP.

For Luxembourgish nationals residing abroad, registration to the National Registry of Natural Persons is not mandatory to benefit from the assistance of diplomatic or consular missions. However, it becomes necessary if the national wants to benefit from a Luxembourgish passport and/or an ID card. Luxembourgers abroad can apply for an ID card to the eID applications service of the Government IT Centre (*Centre des technologies de l'information de l'Etat*). Requests can similarly be addressed to a diplomatic or consular mission. Honorary consulates do not possess the requisite competence to assist in this matter. For security reasons, the application still necessitates the physical presence of the future holder during the application process, even if the document is designated for a baby.

In May 2018, the MFEA launched "Luxembourgers Abroad" (*Lëtzebuenger am Ausland; LamA*),<sup>6</sup> a new project that allows Luxembourgish nationals and members of their family to declare their permanent or temporary stay outside the Grand Duchy. In its annual report of 2017, the MFEA (2017, p. 11) explained that it initiated LamA due to the "proliferation, in recent years, of large-scale events abroad affecting a considerable number of citizens, especially in tourist areas and sites". Another reason pointed to was the increasing mobility of nationals abroad.

The project's primary objective is to facilitate assistance and repatriation in case of major disasters. The MFEA also foresees significant improvements regarding provision and acceleration of the consular assistance, for example, when identifying a national without documents and in communicating official information to Luxembourgers residing abroad (e.g. regarding national or European elections, or related to the location and opening hours of consular posts).

Luxembourgers living abroad, aged 18 or older, can exercise their political rights during the European and the national elections. To do so, voters must request their polling card from the college of mayor and council members of their municipality of registration between 10 weeks and 30 days before election day.<sup>7</sup> The petitioners must declare under oath that their electoral rights have not been frustrated and adjoin a copy of a valid passport to their application.<sup>8</sup> Embassies and the MFEA

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<sup>6</sup>The registration of a stay or residence abroad is carried out via an online assistant: <https://guichet.public.lu/en/citoyens/loisirs-benevolat/culture-tourisme/droits-voyageurs/declaration-sejour-etranger.html>

<sup>7</sup>It is either the municipality of their last residence in Luxembourg or, failing that, the municipality of birth or, failing that, Luxembourg City.

<sup>8</sup>Either by virtue of Article 52 of the Constitution (consolidated version 2017 – *Mémorial* A908, 16/10/2017), or Article 6 of the electoral law of 18 February 2003 (*Mémorial* A30, 21/02/2003).

furnish detailed information on their website. To ease this procedure, a model form is available on the homepage of the embassies. Luxembourgers abroad may also send their request through MyGuichet.lu (with a LuxTrust certificate).<sup>9</sup> The Commune, in turn, will send the ballot paper by registered mail, no later than 30 days before the election. Luxembourg nationals residing abroad are also permitted to participate in referenda organised by the Luxembourg Government aimed at modifying law or the Constitution.<sup>10</sup> Like any other citizen, their eligibility to vote is contingent on inclusion on the electoral rolls for legislative elections on the day of the referendum is set to take place.

While the authorities have facilitated access to the Luxembourgish nationality for the descendants of Luxembourgers living abroad (Feyereisen & Pochon 2015, 261-262), these individuals have neither been accorded the right to vote in municipal elections nor are they themselves able to stand as a candidate in any election organised in the country: residence within the country is mandatory to exercise these electoral rights.

## 19.2 Diaspora Policies and Social Protection in Luxembourg

Luxembourg's social security system includes schemes for the following situations: sickness, maternity, work-related accidents or diseases, pension, disability, survivor's insurance, family benefits, unemployment, long-term care insurance, early retirement, and a guaranteed minimum income.<sup>11</sup> It is both developed and supervised by the Ministry of Social Security and its General Inspectorate (*Inspection générale de la sécurité sociale*; IGSS). Public institutions, run by social partners, manage day-to-day operations.

Luxembourg is one of the most redistributive countries in terms of social protection (Eurostat 2019). However, no policy explicitly aims to facilitate access to social security for nationals residing abroad. [Guichet.public.lu](http://guichet.public.lu), together with some institutions involved in the social protection framework, do provide information on how to get access to social benefits beyond the borders of the Grand Duchy. Nevertheless, this information mainly targets frontier workers, posted workers, or Luxembourgish citizens residing in EAA countries or Switzerland.

The MFEA, on the other hand, only publishes travel notices about countries affected by epidemics, political crises, or terrorist attacks. Further, it provides useful information such as places to avoid and contact details of Luxembourgish embassies, consulates, or that of Belgian missions in non-serviced countries.

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<sup>9</sup>This certificate, delivered by the company LuxTrust S.A., aims to protect both the electronic identity and the data of its owner.

<sup>10</sup>Article 47 of the Law of 4 February 2005 on the national referendum (*Mémorial A27*, 03/03/2005).

<sup>11</sup>Social parameters (in French only): [http://www.mss.public.lu/publications/parametres\\_sociaux/index.html](http://www.mss.public.lu/publications/parametres_sociaux/index.html)

Consulates have no legal obligation to repatriate Luxembourg nationals staying permanently or temporarily abroad. However, in collaboration with the Directorate, they can organise the repatriation of Luxembourgers and their family members in exceptional circumstances: accident or severe illness, death, natural disaster, terrorist attack, epidemic, or political tensions. The MFEA developed Lama as a way to increase its responsiveness in cases requiring assistance to and/or repatriation of nationals. The Regulation of 1923, echoed by the MFEA and many embassies' websites, mentions that under no circumstance will the MFEA or diplomatic/consular missions pay for hospitalisation, repatriation, or medicine. However, on a discretionary basis and in highly exceptional circumstances, an advance may be given if the beneficiary or her/his family has evidenced the requisite financial means to guarantee reimbursement.<sup>12</sup> The same conditions apply for the repatriation of corpses. In 2016, the Directorate, in coordination with the consulates, assisted the families of 10 Luxembourgers who died abroad by helping them navigate administrative hurdles or by ensuring the repatriation of the bodies (MFEA 2016, p. 8).

While consulates do not cover expenses in-cash, they often offer services in-kind. For example, they can advise on which institution to contact, find a lawyer, legalize documents, make available the infrastructure of the consulate (phone, internet, fax, etc.), contact the family of the national requiring help to pass on information, assist the national and his/her family with local procedures, collect money sent by relatives to pay for repatriation or treatment, etc.

Luxembourg is a Contracting Party to the consequential international and European legal instruments dedicated to consular protection. However, the rights of Luxembourgers living abroad are also determined by bilateral agreements. The Luxembourg Government has signed social security conventions with Albania, Argentina, Bosnia and Herzegovina, Brazil, Canada, Cape Verde, Chile, India, Japan, Macedonia, Moldova, Montenegro, Morocco, Quebec,<sup>13</sup> Serbia, Tunisia, Turkey, the United States, and Uruguay.<sup>14</sup>

Three principles govern these bilateral agreements: (1) equal treatment; (2) aggregation of periods of insurance; and (3) export of benefits. These agreements concern the employees as well as the self-employees.<sup>15</sup> They apply to all individuals

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<sup>12</sup>The reimbursement form is available in appendix B of the Grand-Ducal Regulation of 15 May 2018.

<sup>13</sup>Technically speaking, Luxembourg has concluded an understanding with Quebec, and not a convention.

<sup>14</sup>Luxembourg concluded a bilateral agreement with the Philippines on May 15, 2015 (approved by Luxembourg government by the law of 29 November 2016). The Philippine government has not yet ratified the convention. Luxembourg has also signed conventions on social security with China (signed on 27 November 2017 – bill for approval registered on 5 February 2018) and Korea (signed on 1st March 2018 – bill for approval registered on 10 October 2018).

<sup>15</sup>With an exception for India, but only for the Indian part.

ensured in one of the Contracting Parties, without distinction of nationality, except for the conventions with Brazil and Cape Verde.<sup>16</sup>

Luxembourg has also signed bilateral agreements with EU countries, containing provisions which grant broader rights than those provided for in the EU Regulation 883/2004 or which regulate specific situations. These consist of the following instruments:

- Convention with Belgium of 24 March 1994 concerning the social security of frontier workers<sup>17</sup>;
- Convention with France of 7 November 2005 concerning specific provisions on social security<sup>18</sup>;
- Convention with Portugal of 10 March 1997 concerning the recognition of invalidity.<sup>19</sup>

Luxembourg has also signed treaties with 83 countries to avoid the double taxation of its citizens abroad.<sup>20</sup>

### 19.2.1 Unemployment

Beyond what is provided by the EU framework, unemployed Luxembourgers working and residing outside the Grand Duchy do not have any special facility to access unemployment in their home country. Similarly, the consulate services have no outlined role in facilitating or assisting Luxembourg nationals in claiming any welfare entitlements.

The Agency for the Development of Employment (*Agence pour le Développement de l'Emploi*; ADEM) provides information about the portability of the unemployment benefits in the European Economic Area and Switzerland.<sup>21</sup> ADEM has also a specific section on its website dedicated to the frontier workers living in the neighbouring countries. While these individuals do not benefit from the Luxembourg

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<sup>16</sup>The conventions with Morocco and Tunisia also only apply to the nationals of the Contracting Parties. However, for these two, Luxembourg has unitarily declared that it will also apply the conventions for the EU nationals.

<sup>17</sup>Approved by the Law of 6 January 1995 (*Mémorial* A1, 13/01/1995), into force since 1st June 1995.

<sup>18</sup>Approved by the Law of 1 August 2007 (*Mémorial* A145, 16/08/2007), into force since 1st September 2008.

<sup>19</sup>Approved by the Law of 6 April 1999 (*Mémorial* A36, 14/04/1999), into force since 1st June 1999.

<sup>20</sup>These treaties are available on the Direct Taxation Service (*Administration des contributions directes*): [https://impotsdirects.public.lu/fr/conventions/conv\\_vig.html](https://impotsdirects.public.lu/fr/conventions/conv_vig.html). It is worthwhile to mention that the two last treaties concluded were with Cyprus and Senegal. They entered into force on January 1st, 2019.

<sup>21</sup><http://adem.public.lu/fr/demandeurs-demploi/demander-indemnites-chomage/ressortissants-ue/index.html>

unemployment allowance, registration as a jobseeker at the ADEM is permitted.<sup>22</sup> As a result, the jobseeker has access to the vacancies advertised by the Luxembourgish agency.<sup>23</sup> The caveat being that it is necessary to comply with the requirements set forth by the Luxembourgish legislation, which include, for example, regular meetings with the ADEM civil servants. This policy has a direct impact on those Luxembourg nationals working in Luxembourg while residing in Germany (2980 Luxembourgers), Belgium (3160), or in France (2480).<sup>24</sup> In facilitation of this process for those people residing in Germany, France or Belgium, with previous vocational experience in Luxembourg, the ADEM sends forms duly completed by jobseekers' former employer(s) to the employment agency in their country of residence.

Self-employed cross-border workers, having had to discontinue their sole activity based in Luxembourg, may likewise claim unemployment benefits from the State. To do so, several conditions must be fulfilled (e.g. ADEM registration) so as to justify at least 6 months of activity within the Grand Duchy, and one must reside in Belgium, Bulgaria, Cyprus, Croatia, Estonia, Latvia, Liechtenstein, Lithuania, France, Iceland, Italy, Malta, the Netherlands, Norway, or in the United Kingdom.<sup>25</sup>

The bilateral conventions signed with Bosnia and Herzegovina, Macedonia, Morocco, Serbia, Tunisia, and Turkey include provisions related to unemployment benefits, specifically addressing the temporal employment threshold that ought to be met to qualify for unemployment benefits. However, under no circumstances, is the Luxembourgish jobseeker allowed to export his unemployment benefits. These conventions also commit the Contracting States to take into account any family members residing in Luxembourg when calculating benefits.

### 19.2.2 Health Care

The Luxembourg authorities have not developed any specific policies to assist nationals living abroad to benefit from health coverage. The Luxembourgish health care system is State-funded, guaranteeing basic medical assistance to each citizen. To benefit from it, affiliation with the Joint Centre for Social Security (*Centre commun de la sécurité sociale*) is mandatory. All employees contribute to the system on the basis of their professional activities in Luxembourg. Coverage also extends to spouses/partners and children.

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<sup>22</sup> <http://adem.public.lu/fr/demandeurs-demploi/demander-indemnite-chomage/frontaliers/index.html>

<sup>23</sup> <http://adem.public.lu/fr/demandeurs-demploi/demander-indemnite-chomage/frontaliers/index.html>

<sup>24</sup> <https://data.public.lu/fr/datasets/emploi-salarie-par-secteur-dactivite-nationalite-et-type-de-contrat/>

<sup>25</sup> The requirements are detailed on the ADEM website: [http://adem.public.lu/fr/demandeurs-demploi/demander-indemnite-chomage/residents/independants/frontaliers\\_independants/index.html](http://adem.public.lu/fr/demandeurs-demploi/demander-indemnite-chomage/residents/independants/frontaliers_independants/index.html)

On its website, the MFEA posts health-related reminders for people who are planning to travel. From time to time, it also provides more extensive and/or specific general information relating to particular countries, if the Ministry is aware of a public health problem. However, the majority of information is directed mainly at travellers. The National Health Fund (*D'Gesondheetskeess/Caisse nationale de santé*; CNS) similarly distributes information online specific to those people needing medical treatment abroad. It foresees mainly two scenarios: (1) the resident who prefers to have a medical examination in their country of origin; and (2) the traveller who needs urgent medical assistance, both of which supposedly are contribution-based benefit-holders.<sup>26</sup> It is worthwhile to mention that the CNS has dedicated one section of its website to the cross-border workers.<sup>27</sup> Both the CNS and the MFEA advise to complement basic coverage with additional private insurance. No webpage or brochure provides information about access to the health care system in the host countries. However, the consulates can advise Luxembourgers living abroad on how to access health care in their country of residence. As aforementioned, in rare and exceptional circumstances, financial advances can be granted to people “in exceptional distress” for repatriation. To that end, severe illness and accidents have been included in the regulation of 1923. In any case, guarantees of reimbursement, from the national or her/his family, are mandatory.

Except for those signed with Canada and Cape Verde, all bilateral agreements concluded by Luxembourg provide for voluntary health insurance. Moreover, the conventions signed with Bosnia and Herzegovina, Cape Verde, Macedonia, Montenegro, Morocco, Quebec, Serbia, Tunisia, and Turkey contain provisions for an occupational accident and occupational disease insurance. These countries require a ‘certificate of entitlement’ evidencing that the holder is insured and has the right to in-kind benefits during their stay. The social security institutions of these countries, as a consequence, then apply the same rates and tariffs, under the same conditions, as would be for their own citizens. The forms are available online on the CNS website and must be completed at least 15 days prior to departure.<sup>28</sup>

### 19.2.3 Pensions

Neither residence nor nationality is a relevant criterion to gain access to the pension scheme developed by the Luxembourgish authorities. The main requirements are: (1) to have reached the legal age for retirement in Luxembourg, meaning 65 years old; and (2) to have paid, during a period of 120 months at minimum, contributions to a pension plan (irrespective of whether this insurance is compulsory, continued, optional, or a retroactive purchase). Either way, the request for pension benefits

<sup>26</sup><https://cns.public.lu/fr/assure/vie-privee/a-etranger.html>

<sup>27</sup><https://cns.public.lu/en/assure/vie-professionnelle/frontaliers.html>

<sup>28</sup><https://cns.public.lu/en/assure/vie-privee/a-etranger/vacances-hors-ue-eee-suisse.html>

must be submitted in one's country of residence first. The National Pension Insurance Fund (*Caisse nationale d'assurance pension*; CNAP)<sup>29</sup> provides information to individuals residing abroad who fulfil the requirements to claim a pension in Luxembourg.

The CNAP serves as the point of contact for all employees (except civil servants) and non-salaried workers with questions regarding their pension insurance. Civil servants must contact the Contingency Fund for Civil Servants and Municipal Employees (*Caisse de prévoyance des fonctionnaires et employés communaux*) upon retirement. In its Annual Report 2017, the IGSS (2017, 142) stated that, in December 2016, 46.8% of pensions paid out by the CNAP were to non-resident beneficiaries, Luxembourg nationals and foreigners combined.

To benefit from their pension abroad, the Luxembourgers, like any other non-resident beneficiary, each year must complete the life certificate sent to them by the CNAP and return it by snail mail. Consulates have no legal obligation to help Luxembourg nationals to access their pension. However, they are entitled to certify life certificates. In a parliamentary question, two deputies of the Christian Social People's Party (*Chrëschtlech-Sozial Vollekspartei*) have pointed to the arduous nature of the procedure.<sup>30</sup> In his response, the Minister of Social Security highlighted that, in 2017, the CNAP sent 81,692 life certificates to beneficiaries residing in 101 countries.<sup>31</sup> He also emphasised the progress made to improve the exchange of information between the relevant institutions and the plan to abandon the life certificate altogether. In this spirit, the CNAP has concluded agreements with the *Deutsche Rentenversicherung* for Germany, the *Caisse nationale d'assurance vieillesse* for France, and the *Service fédéral des pensions* for Belgium. CNAP has also initiated negotiations with the pension funds of Italy and Portugal.

Each year, CNAP organises "International Information Days". At this occasion, experts from Luxembourg and its border countries give free advice concerning the pension rights of cross-border workers.<sup>32</sup> In 2018, two such events were organised in Luxembourg, nine in Germany, and three in France. Civil society can similarly request these information days as, in the past, has been done by the Portuguese community.

All the bilateral agreements signed by Luxembourg cover occupational old-age, invalidity, and survivors' pensions. CNAP provides a link on its website to each of the respective bilateral conventions.<sup>33</sup> In addition to the aforementioned treaties, Luxembourg maintains a bilateral agreement with Portugal concerning the mutual recognition of the disability status of pension applicants. This instrument offers a solution for an issue faced by many Portuguese entitled to a disability pension in Luxembourg but, in the eyes of the Portuguese authorities, qualified as fully able to

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<sup>29</sup> <https://www.cnap.lu/les-pensions/pension-de-vieillesse/demarche-et-procedure-administrative/>

<sup>30</sup> Parliamentary question 3856, 8 June 2018.

<sup>31</sup> <https://csv.lu/files/2018/06/QP-3856.pdf>

<sup>32</sup> <https://www.cnap.lu/informations-utiles/journees-internationales-dinformation>

<sup>33</sup> <https://www.cnap.lu/periodes-dassurance-a-letranger/>

work. It mainly pertains to Portuguese citizens who began their professional career in Portugal and now reside in Luxembourg.

#### **19.2.4 Family-Related Benefits**

Family benefits offered by the Luxembourg Government are not linked to the nationality of the children or parents, but attach to one's residence and/or employment in the Grand Duchy.<sup>34</sup> The Fund for the Future of Children (*Zukunftskess – Caisse pour l'avenir des enfants*) manages access to the various allowances.

In consequence, some Luxembourgers living abroad remain entitled to receive family-related benefits, such as general family allowances, the 'back to school' allowance, the additional special allowance for biological and adoptive children, the prenatal allowance, and the birth allowance.<sup>35</sup> These nationals, who have one or more children in their household, can also obtain a tax reduction for dependent children. Children of cross-border workers may benefit from an orphan's pension. Specific sections of the Fund for the Future of Children's website are dedicated to these specific beneficiaries. In principle, it is the country of residence that, as a general rule, primarily pays out family benefits (monthly). The EAC then complements the difference between the aggregate benefits provided by the country of residence and those one is entitled to by virtue of Luxembourgish legislation. This so-called "differential complement" (*complément différentiel*) is paid out on a half-yearly basis.

Only the convention with Cape Verde, a large Portuguese-speaking community in Luxembourg, foresees the export of family allowances. The conventions with Argentina, Bosnia and Herzegovina, Macedonia, Montenegro, Morocco, Moldova, Montenegro, Serbia, Tunisia, Turkey, and Uruguay each stipulate that family benefits are granted according to the legislation of the country residence of the child.

Consular services are not expected to assist nationals living abroad to access family benefits in their host countries. However, they can help them to identify relevant institution(s) or scheme(s) within the host country, provide a list of lawyers or sworn translators, or indicate where to go for the legalisation or apostille of official documents. Consulates can likewise provide aid when registering a new-born, a marriage, a divorce, or a death. If the Luxembourg nationals want their baby to be recognised as Luxembourgish, the new-born will have to be registered with the RNPP. As already stated, this administrative procedure can be done electronically. In case the nationals residing abroad do not have a Luxtrust certificate (mandatory to access one's data), the consulate can help to obtain one.

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<sup>34</sup> Or by a Luxembourgish company in case of a post worker.

<sup>35</sup> Birth allowance is restricted only to mothers. That means that a man cannot request such benefit if his wife/partner does not work in Luxembourg.



### 19.2.5 Economic Hardship

The National Social Action Service (*Service national d'action sociale*) is an administrative body under supervision of the Ministry of Family Affairs, Integration and the Greater Region. It was established in 1986 by the law introducing a guaranteed minimum income (*Revenu minimum garanti* – RMG). It is to ensure the execution of Chapter II of the Law of 29 April 1999<sup>36</sup> RMG and coordinate the actions of those authorities and organisations involved.<sup>37</sup> The National Solidarity Fund (*Fonds national de solidarité*), in turn, is mandated to handle the various social assistance benefits in existence, including the RMG.

Residence is a strict conditions for the provision of the RMG. Article 2, point 1.a, of the Law of 29 April 1999 states that, to get access to the RMG, the individual must “benefit from a right of residence on the territory of the Grand Duchy, to be domiciled there and to reside there effectively”. The same requirement applies for benefits provided to people enduring economic hardship, or those wanting to rely on housing subsidies or social inclusion income.

Consular agents are not obliged to assist nationals in economic hardship. However, on a discretionary basis and dependent on the degree of vulnerability, assistance may be granted by identifying the relevant local administrations, NGOs and scheme(s) available in the host country, by producing or requesting to the appropriate home institutions the possible mandatory documents and, if needed, by providing the infrastructure of the consulate to request help from family or friends. Furthermore, direction may be provided to initiate the administrative procedures needed to activate poverty alleviation services in the country of residence. Consular agents can also contact the family to organise travel aiming at reunification. In such a case, the family in question must produce evidence of financial resources that guarantees reimbursement.

Access to guaranteed minimum resources or other schemes that aim to help nationals in economic hardship abroad is not included in any of the bilateral conventions concluded by the Luxembourgish Government.

## 19.3 Conclusions

Luxembourg is a small country whose nationals abroad reside abroad live primarily in the EU. Besides, its diplomatic and consular missions handle a relatively small number of individual cases per year: 80 in 2017, most of them related to the

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<sup>36</sup>Law of 29 April 1999 establishing a right to a guaranteed minimum income (*Mémorial* A60, 01/06/1999).

<sup>37</sup>In July 2018, the Chamber of Deputies approved a bill aiming to revitalise the RMG. The Social Inclusion Income (*Revenu d'inclusion sociale*) entered into force on January 1st, 2019 (Law of 28 July 2018 – *Mémorial* A630, 30/07/2018).

temporary or prolonged detention of nationals in a foreign country, deaths, severe disease or accidents (MFEA 2017, p. 10). As diplomatic and consular missions require human and financial resources, the Luxembourg authorities have kept their diplomatic and consular network tightknit. However, a longitudinal collaboration with the Belgian authorities has for years reinforced the services provided. By virtue of the convention on consular protection between Belgium and Luxembourg, Luxembourgers abroad can access assistance in the majority of countries.

Luxembourgish authorities have not developed any specific social protection policy targeting nationals residing outside the Grand Duchy. Consequently, many Luxembourgers abroad do not have access to the (predominantly tax-based) family benefits, guaranteed minimum resources, and long-term care benefits. Yet, the different tools developed to inform (e.g. via [Guichet.public.lu](http://Guichet.public.lu)) those nationals abroad, whether it be temporarily or permanently, and to enable them to perform administrative procedures (e.g. via LamA) is indicative of the willingness of the Luxembourgish authorities to ease and reinforce their relationship with their nationals abroad.

Actually, due to the attractiveness of the labour market and its high immigration rate, the social protection policies developed by the Luxembourg Government these last decades focused particularly on the integration of foreigners and on assistance to cross-border workers. As a direct consequence, many Luxembourgers and their family members have access to social protection benefits. The plethora of bilateral agreements concluded by the Luxembourgish authorities facilitate access to some social security benefits for Luxembourgers residing in these specific countries. However, these remain predominantly linked to former professional activities in the Grand Duchy and, by extension, fail to help the most vulnerable.

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# Chapter 20

## Diaspora Policies, Consular Services and Social Protection for Maltese Citizens Abroad



Hillary Briffa and Alessandra Baldacchino

### 20.1 Diaspora Characteristics and Home Country Engagement

This chapter assesses the social protection policies enacted by Malta to support the needs of Maltese living abroad. First, the current status of the Maltese diaspora and their engagement with the homeland is contextualized, and key infrastructure and policies outlined. Thereafter, in line with the focus of this book, five areas of concern are addressed: unemployment, healthcare, pensions, family-related benefits, and economic hardship.

Malta is shown to have strong relations with host countries of Maltese emigrants, and there are ongoing communication initiatives between the Maltese government and its citizens abroad; however, this chapter recognises that there is still a long way to go in terms of ensuring democratic participation of citizens in elections. The evidence has been compiled primarily as a result of consultation with primary source material, including national legislation and international treaties, and interviews with a range of experts within relevant Maltese governmental bodies.<sup>1</sup> The chapter reflects policies in place as of March 2019.

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<sup>1</sup> Gratitude is expressed in particular to Ms Marie Das Mifsud (Senior Principal Officer, International Relations Unit), Mr. Joseph Xerri (Secretary, Council for Maltese Living Abroad), Dr. Raymond Xerri (Director, Directorate for Maltese Living Abroad), Ms. Rachel Galea (International Affairs Officer, Ministry for the Family, Children's Rights and Social Solidarity), Ms. Eugenie Megally (Second Secretary, DG Political, EU Affairs, Maltese Abroad), Mr. Julian Zarb (Cultural Diplomacy Unit, Ministry for Foreign Affairs and Trade Promotion), Ms. Christine Said (Consul, Second Secretary, Malta High Commission to the United Kingdom), Kailyze Attard (Executive EU Affairs at Jobsplus), Dr. Antoinette Cutajar (Directorate for Maltese Living Abroad), and Mrs. Rosalie

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### 20.1.1 *The Maltese Diaspora and Its Relationship with the Homeland*

After the Second World War, Malta experienced mass emigration as a result of difficult economic conditions, combined with the post-war baby boom. During this period, Malta's Emigration Department assisted emigrants in bearing the financial cost of relocation and between 1948 and 1967, 30% of the population left the island (Jones 1973). Between 1946 and the late 1970s, more than 140,000 Maltese citizens emigrated on the assisted passage scheme, with 57.6% settling in Australia, 22% in the United Kingdom (UK), 13% in Canada and 7% in the United States of America (US) (Attard 1989). Emigration slowed after the 1970s, but to this day Maltese individuals still seek opportunity beyond their island shores.

Today, the concentrations of Maltese living abroad largely reflect the post-war mass exodus. According to the 2011 Census, there were 163,990 people of Maltese descent living in Australia, the largest community of which could be found in the state of Victoria (19,730 people).<sup>2</sup> In Canada, 38,780 Canadians were recorded as claiming Maltese ancestry.<sup>3</sup> The Maltese communities are largely concentrated in Ontario, but may also be found in Montreal, Vancouver, Winnipeg, and St. John's. Meanwhile, as a result of its colonial history, it is little wonder that the UK and Malta were frequent hosts for each other's emigrants. In 1942, General William Dobbie set up *The Malta League* (active until 2010) to engender communication between the many Maltese in London. In 2009, there were approximately 28,000 Maltese-born residents in the UK.<sup>4</sup> Further afield, in 2016 there were 40,820 Americans of Maltese ancestry (24,202 of whom have Maltese as their first ancestry).<sup>5</sup>

The strength of historic ties with the destination countries of Maltese emigrants is mainly reflected in the number of Reciprocal Agreements signed between Malta and partner countries. Reciprocal Agreements are formal treaties that help coordinate the social security systems of the respective contracting countries.<sup>6</sup> Malta and the UK, for instance, have a close relationship; the Malta High Commission to the

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Rivett (President of *The Malta Diaspora UK*, and former chair of *The Malta League* between 1990 and 2010).

<sup>2</sup>Census 20,680 – Country of Birth of Person by Sex – Australia. (2011). The Australia Bureau of Statistics. <http://www.censusdata.abs.gov.au>. Accessed 31 March 2019.

<sup>3</sup>Ethnocultural Portrait of Canada. (2006) Statistics Canada. <http://www12.statcan.ca/census-recensement/2006/dp-pd/hlt/97-562/pages/page.cfm?Lang=E&Geo=PR&Code=01&Table=2&Data=Count&StartRec=1&Sort=3&Display=All>. Accessed 31 March 2019.

<sup>4</sup>Estimated population resident in the United Kingdom, by foreign country of birth (Table 1.3). (2009, September). Office for National Statistics UK. [http://www.statistics.gov.uk/downloads/theme\\_population/Population-by-country-of-birth-and-nationality-Oct08-Sep09.zip](http://www.statistics.gov.uk/downloads/theme_population/Population-by-country-of-birth-and-nationality-Oct08-Sep09.zip). Accessed 31 March 2019.

<sup>5</sup>American Community Survey 1-year Data. (2016). United States Census Bureau.

<sup>6</sup>Bilateral Conventions on Social Security. Department of Social Security. <https://socialsecurity.gov/mt/en/International-Affairs/Pages/Other-Conventions.aspx>. Accessed 31 March 2019.

UK is located in London, however Malta also maintains consulates in Belfast, Cardiff, Edinburgh, and the Isle of Man. As of 2017, there were estimated to be 31,000 Maltese citizens resident in the UK, and a further 1,000 Maltese students attending universities in Britain (Sansone 2017). The strong ties between the two countries are visible in their exchange of reciprocal benefits in the areas of health, social security, cooperation and mutual support (Saliba Haig 2016).

Although a Reciprocal Agreement for social security has not yet been signed between Malta and Italy, the Embassy of Malta in Rome was amongst the country's first embassies established overseas, inaugurated in 1967. Geographical proximity and intense cultural, historical and personal ties continue to facilitate the enhancement of the wide spectrum of relations as reflected in Italo-Maltese political, economic, and cultural cooperation.<sup>7</sup> Maltese consulates in Italy may be found in Barletta, Bologna, Cagliari, Catania, Florence, Genoa, Milan, Syracuse, Trieste, and Venice.

Most recently, an increasingly significant number of Maltese have emigrated to Europe in the wake of Malta joining the European Union (EU) in 2004. By 2010, this number was estimated at 500 emigrants (Cauchi 2016). Belgium and Luxembourg have seen a surge in Maltese arrivals, pursuing employment opportunities with the European institutions.

### ***20.1.2 Diaspora Infrastructure***

Malta's law on consular functions (Cap 144) pre-dates the Vienna Convention on Consular Relations. Hence, in the Maltese legal system, there is no domestic law granting the right to consular or diplomatic protection. Malta has, however, incorporated the substantive provisions of the Vienna Convention on Diplomatic Relations through the Diplomatic Privileges and Immunities Act 1966 (Cap 191). Therefore, consular assistance is indeed offered as a matter of practice and policy on the basis of respect for fundamental rights of the individual, which are enshrined in the Maltese legal system (CARE 2010). To fulfil this function, a number of bodies under the umbrella of the Maltese Ministry for Foreign Affairs and Trade Promotion (MFTP) regulate Maltese diaspora policy. Engagement with diaspora is arguably a key priority for Malta as the national security document 'Malta's Foreign Policy: Guiding Principles' (2013) outlines the government's commitment to 'ensure regular and closer consultation with Maltese communities abroad; promote stronger political and economic relations with the countries of Maltese migration; encourage the involvement of the Maltese Living Abroad in complementing efforts to promote Malta, particularly its commercial and business facilities in the respective countries

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<sup>7</sup>Embassy of Malta in Italy. [https://foreignaffairs.gov.mt/en/Embassies/Italy/Pages/ME\\_Rome.aspx](https://foreignaffairs.gov.mt/en/Embassies/Italy/Pages/ME_Rome.aspx). Accessed 31 March 2019.

of Maltese migration; support and facilitate the work and activities of the Council for Maltese Living Abroad'.<sup>8</sup>

The needs of the Maltese diaspora predominantly fall under the remit of the Directorate for Maltese Living Abroad within the Directorate-General for Political, EU Affairs and Maltese Abroad, which forms part of the structure of MFTP. Malta has a track record of maintaining contact with its diaspora and held its first Convention for Maltese Living Abroad in 1969; others followed in 2000, 2010, and 2015 (Xerri 2015). The main duties of the MFTP Directorate for Maltese Living Abroad are to serve as a focal point of information for policy-making related to diaspora issues; to keep regular contact with stakeholders related to the Maltese living abroad; to monitor local legislations and EU regulations potentially affecting Maltese living abroad; to provide consultation and advice to the government on diaspora matters; to maintain close and effective liaison with Malta's overseas diplomatic missions; to keep close contact and assist the Secretary of the Council of Maltese Living Abroad (CMLA); to ensure the implementation of decisions made by the CMLA; to assist in the preparation for the Convention for the Maltese Living Abroad; to maintain a register of NGOs and Associations of the Maltese living abroad; and to promote and encourage the voluntary registration of Maltese citizens living abroad.<sup>9</sup>

The Conventions are arguably more than just a talking shop or publicity exercise as they have borne concrete results. As a result of the 2010 Convention, the Maltese government committed to establishing a public institution to safeguard the interests of the Maltese living abroad and then Minister of Foreign Affairs, Dr. Tonio Borg, expressed his intention to give this institution a legal basis through the enactment of a Bill in Parliament.<sup>10</sup> Hence, in 2011 a new law was passed to amend the Constitution of Malta by adding a new article, 20A, which expressly states that 'the State shall facilitate the participation of Maltese citizens who live abroad in the political, social, economic and cultural life of Malta'.<sup>11</sup> The 'Council for Maltese Living Abroad Act, 2011' (Act No. XX of 2011) further sought to establish a Council for Maltese Living Abroad, tasked with protecting and promoting the rights and interests of Maltese living abroad.<sup>12</sup> The CMLA is chaired by the Minister of Foreign Affairs and made

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<sup>8</sup>Malta's Foreign Policy: Guiding Principles. Ministry for Foreign Affairs and Trade Promotion. <https://foreignaffairs.gov.mt/en/Documents/GuidingPrinciples.pdf>. Accessed 31 March 2019.

<sup>9</sup>Directorate General Political, EU Affairs and Maltese Abroad. *Ministry for Foreign Affairs and Trade Promotion*. <https://foreignaffairs.gov.mt/en/Pages/DG-Political.aspx>. Accessed 31 March 2019.

<sup>10</sup>Establishing a Council for Maltese Living Abroad. (2011). *Maltese Community Council of Victoria, Inc.* <https://www.mccv.org.au/establishing-a-council-for-maltese-living-abroad/>. Accessed 29 April 2019

<sup>11</sup>Constitution of Malta (1964). Ministry of Justice, Culture and Local Government. Valletta. <http://justiceservices.gov.mt/downloaddocument.aspx?app=lom&itemid=8566>. Accessed 31 March 2019.

<sup>12</sup>Council for Maltese Living Abroad Act, Act No. XX of 2011. Ministry of Justice and Home Affairs. [http://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=&p\\_isn=90485](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=&p_isn=90485). Accessed 31 March 2019.

up of a group of persons living abroad, selected by the Prime Minister. Objectives include promoting the quality of life of the Maltese communities abroad; strengthening political, cultural, economic and social ties between the Maltese communities abroad and Malta; promoting and facilitating the preservation of a cultural and linguistic identity among the community; analysing problems which Maltese communities encounter (including issues relating to working conditions, professional and educational training, and recognition of qualifications obtained by Malta); and advising the Minister of Foreign Affairs on any legislation or issue that can affect the interests of Maltese abroad.

The Council convenes once a year in Malta, following a year of internal consultations among councillors and externally with the communities that they represent around the globe. The outcome of the Council meetings serves as the basis upon which the Directorate for Maltese Living Abroad within MFTP works, in conjunction with line ministries and government agencies, to implement the proposals of the Maltese diaspora. Items of discussion in the past have included the teaching of the Maltese language and the history of Maltese emigration, the dissemination of Maltese culture, the effects of property laws and taxation rates on Maltese living abroad, dual citizenship, distance voting in European Parliamentary elections, and establishing a register for diaspora organisations and prominent Maltese living abroad. During the ninth meeting of the Council, held in 2018, then Foreign Minister Carmelo Abela raised the possibility of establishing regional committees so that a greater number of Maltese living abroad may have the opportunity to participate actively in initiatives relating to the Maltese diaspora.<sup>13</sup> This may therefore be enacted in the near future.

Currently,<sup>14</sup> Malta maintains 24 embassies and high commissions abroad, as well as 190 consulates and one other representation.<sup>15</sup> The Consular Services Directorate within MFTP deals directly with services aimed at the general public. The Maltese diplomatic staff serving abroad enable the Directorate to provide a broad array of services to Maltese individuals, ranging from medical assistance to assistance to victims of crime, and loss or theft of travel documents. In such situations, the Directorate acts as the point of contact between the individual and his or her family, facilitates financial transactions when needed and, in countries where Malta has a diplomatic presence, ensures that Maltese diplomatic agents, whenever possible, visit and assist the person in distress. The Directorate also helps in searching for

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<sup>13</sup>Government continues strengthening relation with Maltese living abroad. (2017, October 13). *The Malta Independent*. <http://www.independent.com.mt/articles/2017-10-13/local-news/Government-continues-strengthening-relation-with-Maltese-living-abroad-6736180198>. Accessed 31 March 2019.

<sup>14</sup>This information is correct as of 28 March 2019. Malta's Embassy in Tripoli has been temporarily closed since 2014 as a result of Libya's domestic crisis but a new Ambassador is due to take up residency in the near future.

<sup>15</sup>Representative Office of Malta in Ramallah, Palestine.



Maltese citizens reported missing while abroad and provides information to the family.<sup>16</sup>

The Directorate provides general information concerning visa procedures for Maltese nationals wishing to travel abroad. Regularly updated travel advice is additionally provided to Maltese nationals who may need to travel to countries where the political situation may not be conducive for travel. Whenever a country or region is affected by an emergency or crisis situation, the Directorate serves as the point of contact between Maltese nationals abroad and their concerned families at home by setting up an *ad hoc* Emergency Crisis Centre.<sup>17</sup>

It was anticipated that Malta's accession to the EU in 2004 would increase the demands of administering obligations in the social security field. Therefore, the Ministry for the Family, Children's Rights and Social Solidarity established an International Relations Unit (IRU) in 2003. The international scope of the Department of Social Security (DSS) goes beyond the EU, however, and the IRU therefore contends with a broader range of international concerns. Indeed, the IRU has become a fully-fledged unit dealing with all benefits under all bilateral agreements, international agreements and covenants which the DSS has entered into, as well as EU Regulations (EC) Nos. 883/2004 and 987/2009 on the coordination of social security systems.<sup>18</sup> The Unit attends meetings both locally and abroad regarding social security, including the Administrative Commission on Social Security for Migrant Workers, the Ad Hoc Working Group on electronic data exchange, the Social Questions Working Party, Mutual Information System on Social Protection, and other Council of Europe conferences.<sup>19</sup>

### 20.1.3 Key Engagement Policies

Malta demonstrably has infrastructure in place specifically targeted to the needs of its citizens abroad, and through the Directorate for Maltese Living Abroad (MFTP) and the IRU a range of engagement policies have been put into place.

The Ministry for Foreign Affairs runs a voluntary notification service for Maltese citizens living abroad. All Maltese citizens who intend to travel or live abroad for over a month, whether temporarily or permanently, are urged by the government of Malta to fill in and sign a form called 'Notification D'.<sup>20</sup> This allows the government

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<sup>16</sup> Directorate for Consular Services. *Ministry for Foreign Affairs and Trade Promotion*. <https://foreignaffairs.gov.mt/en/Pages/Directorate-for-Consular-Services.aspx>. Accessed 31 March 2019.

<sup>17</sup> *Ibid.*

<sup>18</sup> *International Relations Unit*. Department of Social Security. <https://socialsecurity.gov.mt/en/International-Affairs/Pages/default.aspx>. Accessed 31 March 2019.

<sup>19</sup> *Ibid.*

<sup>20</sup> Voluntary Registration for Maltese Travelling and Living Abroad (Notification D). *Government services*. <https://servizz.gov.mt/en/Pages/Other/Foreign-Affairs/Maltese-Communities-Abroad/WEB010/default.aspx>. Accessed 31 March 2019.

to provide better protection and assistance to nationals living abroad through its consulates.

Every legal process that involves Maltese and foreign jurisdictions may seek assistance of the Consular Services Directorate which, through its network of embassies and consulates abroad, serves as the main point of contact between the juridical authorities of the countries concerned. The Directorate has a Legalisation Unit which issues so-called Apostilles or Legalisation certificates. Whenever a Maltese national is arrested or sentenced by a foreign court, MFTP acts as the means of communication between the detained individual and the family in Malta and tries to ensure that the convicted citizen has access to adequate legal representation, in a language that s/he may understand.

New Maltese passports are biometric and must be issued by the Passport Office in Malta. Hence, applicants must submit their application in person at the consulate, where their biometric data is captured electronically and subsequently transmitted to the Passport Office in Malta for processing.<sup>21</sup> To address accessibility issues, the Maltese government set up the ‘Consul-on-the-Move’ in 2016, a programme which provides some consular services ordinarily available at Maltese embassies, high commissions and consulates general abroad. Services offered through this initiative include applications for life events certificates and Maltese citizenship. The programme arguably conforms with the government’s policy to bring its services closer to the citizens.<sup>22</sup> Currently, the service is available in the top five destination countries for Maltese abroad: Canada, the US, the UK, Australia and New Zealand.

In countries where there is no formal embassy, high commission or consulate, Honorary Consuls are appointed to further the bilateral relations between the host country and Malta, and to serve as a source of information for Maltese nationals. As Malta forms part of the Schengen area, there are additional arrangements with Italy and Austria for these States’ diplomatic representations to issue Schengen visas on Malta’s behalf in third countries where Malta does not have representation (CARE 2010).

Furthermore, under the ‘EU Directive on consular protection for unrepresented European citizens living or travelling outside the EU’<sup>23</sup> unrepresented EU citizens are entitled to receive consular protection under the same conditions as nationals of the consulate’s country. Therefore, Maltese citizens or their family members who are in distress in a country without a Maltese embassy or consulate may seek help at the embassy of any other EU state in cases of arrest or detention; being victims of

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<sup>21</sup>The Malta High Commission in London. *Ministry for Foreign Affairs and Trade Promotion*. [https://foreignaffairs.gov.mt/en/embassies/hc\\_london/pages/services.aspx](https://foreignaffairs.gov.mt/en/embassies/hc_london/pages/services.aspx). Accessed 31 March 2019.

<sup>22</sup>Directorate for Consular Services. *Ministry for Foreign Affairs and Trade Promotion*. <https://foreignaffairs.gov.mt/en/Pages/Directorate-for-Consular-Services.aspx>. Accessed 31 March 2019.

<sup>23</sup>Consular protection outside the EU. (2019, March 21). European Commission. [https://ec.europa.eu/info/policies/justice-and-fundamental-rights/eu-citizenship/consular-protection\\_en](https://ec.europa.eu/info/policies/justice-and-fundamental-rights/eu-citizenship/consular-protection_en). Accessed 31 March 2019.

crime; serious accident or injury; death; relief and repatriation during emergencies; and whenever they need an emergency travel document.

Malta has an extensive number of double taxation treaties, which ensure that tax is never paid twice on the same income in different countries.<sup>24</sup> Apart from this, as a small state Malta generally harnesses its human capital over limited material resources. Therefore, while the Maltese government offers a range of services to the Maltese diaspora through its representations, it does not provide cash benefits to nationals residing abroad in any circumstance. Moreover, Malta has no set practice of repatriation of corpses and no repatriation agreements. Thus, while the consular and embassy officials assist with logistical needs that arise when a Maltese citizen dies abroad – such as obtaining death certificates and putting next-of-kin into contact with a local undertaker – neither the Ministry for Foreign Affairs, nor the Ministry for Health, covers repatriation costs. It is not possible to provide funds for the funeral, nor to bring relatives of the deceased to the place where death has occurred, or to accompany the corpse back to Malta. Malta is not party to the 1973 Agreement on the Transfer of Corpses (CARE 2010). Repatriations of human remains are carried out according to International Regulations and under the supervision of Port Health Authorities.<sup>25</sup>

In addition to assistance with legal or health issues, education of said human capital is arguably prioritised, as evidenced by local and foreign governments offering scholarships for Maltese citizens who may wish to undertake their studies abroad. Following an official notification of an offered scholarship, the Scholarship Unit within the Directorate for Maltese Living Abroad issues a press release, distributes and receives applications from interested parties, coordinates interviews, and offers practical guidance to successful candidates.

Cultural diplomacy also falls within the remit of the MFTP. Through the Cultural Diplomacy Unit, established in 2013, Maltese Representations are responsible for the bilateral cultural agreements with other countries, as well as the promotion of Maltese culture and identity abroad. The CDU works with the Arts Council Malta – the national agency for development and investment in the cultural and creative sectors – to promote the local culture overseas through the diplomatic missions. In 2012, the CDU launched the Cultural Diplomacy Fund to incentivise Maltese Missions abroad to organise and participate in cultural events. In addition to the CDU, the Fund is managed by an appointed board consisting of representatives from MFTP, Ministry for Justice, Culture and Local Councils, and the Ministry for Finance.<sup>26</sup>

<sup>24</sup>Double Taxation Treaties. FinanceMalta. <https://www.financemalta.org/double-taxation-agreements/>. Accessed 31 March 2019.

<sup>25</sup>Repatriation of Human Remains. *Health.gov.mt*. <https://deputyprimeminister.gov.mt/en/environmental/Health-Inspectorate/PHS/Pages/Repatriation-of-Human-Remains.aspx>. Accessed 31 March 2019

<sup>26</sup>Directorate General Global Issues, International Development and Economic Affairs. *Ministry for Foreign Affairs and Trade Promotion*. <https://foreignaffairs.gov.mt/en/Pages/DG-EEA.aspx>. Accessed 31 March 2019.

Complementing the work of the CDU are civil society groups, which seek to promote Maltese culture abroad; a prime example is the Maltese Culture Movement in the UK. This is a community organisation that organises traditional Maltese functions and events, and promotes Maltese talent in the UK.<sup>27</sup> Civil society organisations like the Maltese Culture Movement are run on a philanthropic basis, and there is no specific Maltese policy by which citizens residing abroad receive incentives to create or run not-for-profit organizations, although one-off incentives may be provided.

The Council for Maltese Living Abroad Act (Chapter 515) embraces all that is considered in the promulgation and dissemination of local culture and education abroad. The duties of the CMLA include the maintenance and promotion of the cultural and linguistic identity of Maltese communities abroad, particularly the teaching of the Maltese language.<sup>28</sup> An additional duty is to analyse and verify the problems encountered by Maltese Communities abroad, including professional and educational training and development, and recognition of qualifications and skills gained in Malta.<sup>29</sup> In the UK, the *Malta Diaspora UK* (newly founded in 2020) also operates within the parameters of the CMLA and incorporates all Maltese entities in the UK for representation to the Maltese government.

Whilst these initiatives have bolstered support for the communities of Maltese abroad, there are still steps to be taken to ensure their full democratic participation. Residence in Malta is a requirement for the qualification of voters in all types of elections – local, national, European Parliament and national referenda. ‘Residence’ referred to in Article 57 of the Constitution does not mandate physical presence in Malta as it permits periodic absence for work, study, illness, or mission. Such residency is difficult to monitor in any case, however, owing to free movement between EU member states inherent to membership. In the past, it was possible to ascertain how long an individual had been out of Malta by checking travellers’ mandatory embarkation and disembarkation cards, however these are no longer used.

At the same time, there is no system whereby Maltese citizens abroad can cast their votes externally. Although no rule expressly forbids expatriate citizens from voting, they must return to Malta to do so in person; the financial and logistical difficulties thereby disenfranchise those who cannot afford it. Since 2011, the European Commission has been taking Malta to task over this flagrant disenfranchisement. Successive Maltese governments have been lobbied and presented with petitions to allow Maltese citizens abroad to vote electronically, by post, or in person at Maltese representations. Over a thousand people signed a petition to this end ahead of the 2013 general election. However, any change to the electoral system requires an amendment to electoral laws. The government has yet to convene a Constitutional

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<sup>27</sup> Aims of Movement. *Maltese Culture Movement*. <https://www.malteseculturemovement.com/?s=4>. Accessed 31 March 2019.

<sup>28</sup> *Chapter 515: Council for Maltese Living Abroad Act* (2012, 22 July). Ministry for Justice, Culture and Local Government. <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=11812&l=1>. Accessed 31 March 2019.

<sup>29</sup> *Ibid.*

Convention to discuss the necessary constitutional reforms. Neither of the major political parties has made headway on this aspect, which may be attributable to a desire to maintain tighter control over the electorate.

The General Elections Act stipulates that Maltese citizens are permitted to vote in Malta 7 days before polling day, subject to taking an oath before the Electoral Commission (or anyone acting on its behalf, including consulates) that they will not be in Malta on the day of the election itself. Maltese citizens who are abroad for state representation or work purposes are offered the possibility of flying in to vote. In what has become common practice, the government offers a scheme by which eligible voters living abroad can purchase return flight tickets with the national airline, Air Malta, at a subsidised rate (DeBono 2013). DeBono (2013) highlights how expensive this is for the government: 3057 voters had benefited from the scheme in the 2008 national election, costing the country €1,015,724 million; in the 2009 European Parliament election, 1377 voters benefited and the cost was €442,000.<sup>30</sup>

To run in local or general elections in Malta, prospective candidates must reside in Malta for at least an aggregate of 6 months in the 18 months preceding the election. The exception to this rule is when citizens are resident abroad owing to state service outside the country, such as military, police or diplomatic service; in this instance, they are deemed 'ordinarily resident' in Malta (DeBono 2013). Legally, it is permissible to stand for European Parliament elections in Malta, even if one is living abroad. However, it is necessary to register in Malta first. There are no additional formalities to go through if standing for home elections while abroad. However, the cultural practice in Malta – a largely bipartisan country with the highest non-compulsory voter turnout in the world – is for contenders to stand with one of the major political parties, and a local presence is expected, despite not being a legal requirement.

## 20.2 Diaspora Policies and Social Protection in Malta

It is evident that engagement with diaspora is a comprehensive process, targeting aspects as diverse as culture, education, and security. A foremost concern, however, is undoubtedly access to adequate social protection. The National Insurance system in Malta forms the backbone of the national social security system. It is based on regular payments and a redistribution system that covers residents for benefits in sickness and maternity, retirement, invalidity and widows, injury and occupational diseases, unemployment, and family benefits. As a result of Malta's accession to the EU, social benefits became available to all citizens from other EU member states and, reciprocally, Maltese became eligible to benefits from other EU states. Additionally, the government of Malta has been very active in ensuring Maltese

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<sup>30</sup>*Twegiba għall-mistoqsija parlamentari numru 13091.* (2009, 23 November). House of Representatives Malta. [www.pq.gov.mt](http://www.pq.gov.mt). Accessed 31 March 2019.

nationals abroad receive adequate social protection, manifested in the Reciprocal Agreements it has signed with third countries hosting Maltese emigrants, which generally cover health and unemployment benefits, industrial injuries, and contributory pensions for retirement and widows.

### **20.2.1 Unemployment**

Due to the EU legislation, an unemployed individual who receives unemployment benefits in Malta can leave the country to search for work in another EU Member State, and continue to temporarily receive unemployment benefit. Beyond this provision, links are provided by MFTP to visit the European Employment Service (EURES) website for Malta. Maltese EURES advisers can answer questions related to moving, living and working conditions in any EURES Member State. The MFTP website also provides pre-departure information on ‘Obtaining or Renewing Your Passport’ and provides a list of Maltese representatives abroad to guide individuals looking for work abroad.

The Maltese government offers schemes to assist participants in developing the skills needed to integrate in the labour market. The Employment and Training Corporation (ETC) was renamed in 2016 to Jobsplus,<sup>31</sup> a dynamic organisation that aims to meet the labour market needs of employers, jobseekers and employees. The primary functions of the ETC included the provision of a public employment service and the training of individuals to improve their skills to find employment. Malta’s accession to the EU boosted the Corporation’s financial resources by tapping into the European Social Fund to expand its employment and training services, and to facilitate the employment of disadvantaged and disabled persons and the training of employed persons by employers. Jobsplus now provides a range of training schemes, such as the Traineeship Scheme, the Work Exposure Scheme, the Work Placement Scheme, and the Youth Guarantee.

Jobsplus delivers training programmes locally, so these would not be available to persons living abroad and must be accessed prior to the move overseas. However, Maltese nationals living abroad can contact Jobsplus by email or phone. Issues related to social protection and conditions of work, however, do not fall within the remit of Jobsplus. Concerned individuals are directed, instead, to the aforementioned International Relations Unit within the Department of Social Security. Individuals may also access the Citizens First website run by Europa, the EU’s portal.<sup>32</sup>

Although the government of Malta website provides specific information on ‘Searching and Applying for a Job Overseas’, there are no pre-departure in-person

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<sup>31</sup> *History*. Jobsplus. <https://jobsplus.gov.mt/about/history>. Accessed 31 March 2019.

<sup>32</sup> *FAQ*. Ministry for Foreign Affairs and Trade Promotion. <https://foreignaffairs.gov.mt/en/Pages/FAQ.aspx>. Accessed 31 March 2019.

training sessions for Maltese moving abroad for work. Consulates are unable to offer specific training or official assistance in the search for employment. Furthermore, nationals residing abroad are not entitled to cash benefits, in-kind benefits or repatriation assistance, in case of unemployment, from the consulates.

### 20.2.2 Health Care

Malta has a strong public healthcare system, which provides free healthcare services to all Maltese citizens and residents, including the Maltese diaspora. According to Subsidiary Legislation 35.28 Healthcare Fees Regulation, a citizen of a country which has a reciprocal health care agreement in force with Malta, or a person who enjoys freedom of movement in terms of article 44 of the Constitution of Malta, has free access to all state healthcare.

Malta follows EU regulation 883/04 and implementing regulation 987/09 on the coordination of social security systems, which includes offering reciprocal emergency healthcare treatment for EU citizens with a European Health Insurance Card (EHIC). The services provided to Maltese nationals by the Directorate for Consular Services at MFTP include medical assistance. The consulate and embassy officials' assistance, however, is limited to tending to logistical needs and liaising with local authorities and health institutions. Consulates may help Maltese nationals access home coverage abroad by submitting administrative documents, but do not offer direct access to health services on their premises, cash benefits or repatriation services. Moreover, Malta is part of the EU Directive 2011/24/EU on patients' rights in cross-border healthcare under which EU citizens have the right to access planned healthcare in any other Member State and be reimbursed by their home country.

Beyond EU regulations, Malta has signed bilateral healthcare agreements with other countries. The Bilateral Reciprocal Healthcare Agreement with Australia provides, free of charge, immediately necessary medical and public hospital care for residents during their first 6 months. Malta had also signed a Social Security Reciprocal Agreement with the UK as early as 1956, to assist citizens to move between the two countries, obtain their due benefits, and regulate the payment of social security contributions. This Agreement covers health benefits and allows Maltese and UK citizens to freely use the health services of each other's country if they can prove that they are ordinary residents.

The rise of online services is revolutionising the way the government can provide select services to its diaspora, including mental healthcare. The Ministry for the Family, Children's Rights and Social Solidarity funds a programme called '[kellimni.com](http://kellimni.com)', which is run in collaboration with the non-governmental organisation Solidarity Overseas Service Malta (SOS Malta). It is a child and adolescent online support service run by trained staff and volunteers. Through [kellimni.com](http://kellimni.com), youth can, in an anonymous way, express their concerns and talk about the issues directly affecting them. [Kellimni.com](http://kellimni.com) is aimed at youths who are suffering from any form of social exclusion, abuse, neglect, or psychological difficulties, and who are in need

of immediate emotional, moral, and social support.<sup>33</sup> Although the service is not directly meant for the Maltese diaspora, the fact that it is online means that it is accessible from abroad too. This shows a form of deterritorialization of Malta's health policies.

### 20.2.3 Pensions

The Social Security Act (Cap. 318 of the Laws of Malta) regulates the social security system in Malta and provides for two basic schemes: the Contributory Scheme, and the Non-Contributory Scheme. In order to be entitled to the Contributory Scheme, persons employed, self-employed or not in receipt of a salary (whose income does not come from economic activity but from other sources) pay contributions on a weekly basis. Any person between the age of sixteen and retirement age is required to pay contributions. All cash benefits are administered by the Department of Social Security. These contributory pensions – retirement, invalidity and widows – are all exportable to all parts of the world, so long as the applicant qualifies and meets the contribution requirements.

Two methods of payment are available to beneficiaries of Maltese pensions residing inside and outside the EU: in SEPA countries (Single Euro Payments Area), payments are made directly by the Department of Social Security to the beneficiary every 4 weeks. With respect to the other countries, the payments are made through a bank transfer approximately twice a year, to cover a back payment of 6 months. Pensioners who do not live in a SEPA country are encouraged to open a bank account in Malta or in another SEPA country to receive their pension regularly every 4 weeks.

The Maltese consulates cannot provide cash benefits to Maltese pensioners living abroad as they are only administered by the Department of Social Security. Furthermore, there is no policy permitting consulates to submit documents on behalf of Maltese residents abroad. Every individual must apply personally for his or her pension, and applications are forwarded to Malta. Consulates may assist Maltese nationals by informing them of the process or directing them to the social security services in their country of residence, if they reside in an EU country. For third countries, the application must be lodged at the Department of Social Security in Malta by downloading the claim forms and sending them by post, or by lodging a claim physically whilst on holiday in Malta.<sup>34</sup> Whilst consulates may help residents locate the Retirement or Widow/ers Pension application claim form online, it is the host country's government department that must ultimately forward the claim

<sup>33</sup> Kellimni.com. SOS Malta – Solidarity Overseas Service. <http://www.sosmalta.org/kellimni>. Accessed 31 March 2019.

<sup>34</sup> Pensions Information. Department of Social Security. <https://socialsecurity.gov.mt/en/pensions/Pages/default.aspx>. Accessed 31 March 2019.



forms to Malta.<sup>35</sup> The consulates may also assist by issuing cheques to residents who cannot receive online bank transfers. When a pensioner dies, the family is required to inform the pension officer within the consulate, who will then inform the Department of Social Security in Malta. Life Certificates are sent once a year from Malta to all pensioners paid abroad, and failure to return it duly endorsed will result in the suspension of pension.

Regarding invalidity pensions, according to the Maltese Social Security Act an invalidity pension may be awarded to a person who is certified as being unfit for suitable full-time or part-time employment due to a serious disease or bodily or mental impairment, subject to the relative social security contribution conditions under the Social Security Act (Cap. 318.). The applicant must have been on sick leave and providing weekly sickness reports for the 6 months prior to the application for an invalidity pension (except in cases of terminal illness).<sup>36</sup> Any person who satisfies the criteria and statutory conditions may lodge the application for the invalidity pension at the country of residence. Once awarded, the invalidity pension may be paid abroad, so long as all changes in circumstances are reported.

When moving between EU member states, under EU regulations there are two methods of apportioning responsibility for the payment of invalidity benefits; in Malta's case, responsibility is apportioned on a pro-rata basis. This occurs where the rate of benefit is determined by the length of the periods of insurance. Each state pays a rate of benefit which reflects the length of the claimant's insurance under their scheme. Benefits will be payable anywhere in the EU, EFTA, and Switzerland. A pro-rata invalidity pension is paid according to the same general proportionality rule applied for the old-age and survivor's pensions.<sup>37</sup>

Since Malta has signed Reciprocal Agreements with Australia, Canada, the UK, the Netherlands and New Zealand on a number of benefits, including retirement, invalidity and widow/ers' pensions, Maltese nationals residing in these countries should claim their Maltese pension by lodging a claim through the social security institution of the respective country.<sup>38</sup> The Agreement with the UK was specifically revised in 1996 to further include invalidity benefits. Moreover, Maltese pensioners who receive a British pension and vice versa will not experience any change in their situation due to Brexit. The Agreement between Malta and the UK is the only Reciprocal Agreement that Malta has with a foreign country which deals with the payment of short-term benefits, in addition to the usual long-term benefits.<sup>39</sup>

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<sup>35</sup> *Retirement Pension Under the Social Security Agreement between Malta and Australia*. Department of Social Security. <https://socialsecurity.gov.mt/en/Documents/Benefits-and-Assistance/RetirementPensionAUSEN.pdf>. Accessed 31 March 2019.

<sup>36</sup> *Benefits Covered*. Department of Social Security. <https://socialsecurity.gov.mt/en/International-Affairs/Pages/Benefit-Covered/Benefits-Covered.aspx>. Accessed 31 March 2019.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Pensions Information*. Department of Social Security. <https://socialsecurity.gov.mt/en/pensions/Pages/default.aspx>. Accessed 31 March 2019.

<sup>39</sup> *Convention on Social Security between the Government of the Republic of Malta and the Government of the United Kingdom of Great Britain and Northern Ireland*. (1996, 1 September).

A Reciprocal Agreement with Australia, signed in 1991, contends with retirement, widowhood, and invalidity; the non-contributory pensions and assistance are also covered in Malta.<sup>40</sup> This agreement provides that, where necessary, any residence in Australia should be deemed periods of contributions in Malta and vice-versa. On retirement pensions, the Department of Social Security must inform the applicant in writing about the outcome of the claim. Once awarded, the pension is deposited into a bank account as specified by the applicant on the application form.<sup>41</sup> A contributory retirement pension is awarded with effect from the day following date of retirement.

In 1992 an Agreement was signed with Canada, covering contributory pensions in relation to retirement, widowhood and invalidity, and orphan and death benefits.<sup>42</sup> The Malta-Canadian Reciprocal Agreement further regulates with respect to the payment of social security contributions in cases where a resident of one country is working in the other. Canada's social security system is based partly on residence periods and a financial means test. Canada exercises a dual role Social Security System where it has a contributory system and a residence-based old age pension system. Provisions are found where residence in one country becomes contributions in another, and vice-versa.

Further Reciprocal Agreements were signed with the Netherlands in 2001 and New Zealand in 2013. The benefits covered in the latter include pensions in respect of retirement and widowhood for Malta, and superannuation and veterans' pensions for New Zealand. In 1990, Malta signed a similar, albeit more limited, agreement with Libya, which stipulated that no Maltese worker would need to pay Social Security contributions whilst working in Libya. The Maltese Embassy in Tripoli left Libya in 2014 due to the violent clashes that broke out in the city between rival armed groups (Galea 2019). To date, the critical insecurity situation in Tripoli has prevented the re-opening of this Embassy.

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Ministry for the Family, Children's Rights and Social Solidarity. [https://socialsecurity.gov.mt/en/about-us/Documents/Reciprocal%20Agreements/mt\\_uk.pdf](https://socialsecurity.gov.mt/en/about-us/Documents/Reciprocal%20Agreements/mt_uk.pdf). Accessed 31 March 2019.

<sup>40</sup>Agreement on Social Security between the Government of Australia and the Government of Malta. (1990, 15 August). Ministry for the Family, Children's Rights and Social Solidarity. [https://socialsecurity.gov.mt/en/about-us/documents/reciprocal%20agreements/mt\\_australia.pdf](https://socialsecurity.gov.mt/en/about-us/documents/reciprocal%20agreements/mt_australia.pdf). Accessed 31 March 2019.

<sup>41</sup>Retirement Pension under the Social Security Agreement between Malta and Canada. Department of Social Security. <https://socialsecurity.gov.mt/en/Documents/Benefits-and-Assistance/RetirementPensionCANEN.pdf> Accessed 31 March 2019.

<sup>42</sup>Agreement on Social Security between the Government of Canada and the Republic of Malta. (1991, 4 April). Ministry for the Family, Children's Rights and Social Solidarity. [https://socialsecurity.gov.mt/en/about-us/documents/reciprocal%20agreements/mt\\_canada.pdf](https://socialsecurity.gov.mt/en/about-us/documents/reciprocal%20agreements/mt_canada.pdf). Accessed 31 March 2019.

### ***20.2.4 Family-Related Benefits***

Malta follows the EU Social Security Coordination Regulations No 883/2004<sup>43</sup> and 987/2009,<sup>44</sup> offering family benefits to EU nationals or third country nationals who reside and work in Malta. The International Relations Unit at the Ministry for the Family, Children's Rights and Social Solidarity only caters for contribution-based benefits; therefore, the person concerned should have worked and contributed towards the Maltese Social Security Scheme prior to claiming any contributory based benefit. Maltese living in another EU Member State can only access family benefits through the social security institution of their state of residence, while Maltese nationals residing in a third country are not entitled to access home-country birth grants. With respect to child benefits for workers' families, these are provided by the state of employment, even if the family lives in another Member State. If entitlement would otherwise arise in more than one Member State, the regulations contain priority rules to determine who has primary responsibility for paying. If the effect of these priority rules puts a lower rate of benefit in payment, the state with the higher rate must pay a supplement to make up the difference. .

Beyond family benefits, other service in this area concerns the possibility for Maltese nationals to order birth certificates online or through any of the Maltese consulates. Applications for registration of documents are processed and stored at the Public Registry in Malta. Although not obligatory, Maltese consulates may assist Maltese citizens who want to register a birth abroad with the Maltese government.

### ***20.2.5 Economic Hardship***

The government of Malta does not offer a guaranteed minimum resources scheme and, therefore, Maltese consulates provide limited assistance to nationals residing abroad in cases of economic hardship. Under Art 6 of Decision 95/553/EC,<sup>45</sup> consulates in EU member states do not provide any cash or in-kind benefits in case of non-health related economic hardship. However, consulates may assist nationals

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<sup>43</sup>Regulation 883/2004/EC on the coordination of social security systems. (2004, 29 April). Official Journal. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0883-20130108>. Accessed 31 March 2019.

<sup>44</sup>Regulation 987/2009/EC laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (2009, 16 September). Official Journal. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2009R0987:20130108:EN:HTML>. Accessed 31 March 2019.

<sup>45</sup>Decision 95/553/EC of the Representatives of the Governments of the Member States meeting within the Council of 19 December 1995 regarding protection for citizens of the European Union by diplomatic and consular representations (1995, 19 December). Official Journal. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:41995D0553>. Accessed 31 March 2019.

residing abroad in accessing financial assistance from family members or friends. In such cases, the next-of-kin may deposit an equal amount of money necessary to offset costs in any of Malta's diplomatic missions or Head Office in advance. The recipient Malta Mission will inform the Malta Mission dealing with the case that the money has been deposited or that a guarantee by the next-of-kin has been submitted.

As previously noted, Malta has no set practice of repatriation and no repatriation agreements in place. In exceptional circumstances, and on a case -by -case basis, assistance can be offered to repatriate the Maltese citizen back to Malta with financial assistance from relatives or certain funds in Malta, such as the Community Chest Fund.

### 20.3 Conclusions

In the Maltese legal system, there is no domestic law granting the right to consular or diplomatic protection; however, Malta has incorporated the provisions of the Vienna Convention, and assistance is offered as a matter of practice based on respect for fundamental rights of the individual, which are enshrined in Maltese law. The needs of Maltese diaspora predominantly fall under the remit of the Directorate for Maltese Living Abroad within the Directorate-General for Political, EU Affairs and Maltese Abroad, which forms part of the structure of the Maltese Ministry for Foreign Affairs and Trade Promotion. In addition to serving as the focal point for information and assistance, the Directorate liaises annually with the nominated Council for Maltese Living Abroad to advise the Ministry. No particular policies to incentivize Maltese to return were identified, and there was no evident distinction between policies applied in Malta or regionally in Gozo. Cultural and educational programmes are enacted through the MFTP's Cultural Diplomacy Unit and civil society groups. Furthermore, Malta has held four local Conventions for Maltese Living Abroad since 1969. These structures leverage Malta's limited human capital to facilitate communication and consultation on policy, and the promotion of national identity.

The strength of historic ties with the destination countries of Maltese emigrants is mainly reflected in the number of Reciprocal Agreements signed between Malta and partner countries. The International Relations Unit in the Ministry for the Family, Children's Rights and Social Solidarity contends with all benefits under all bilateral and international agreements which the Department of Social Security has entered into. The Maltese government does not provide any cash benefits, birth grants, local job training or repatriation services for nationals residing abroad. Malta does have a strong public healthcare system, which provides free healthcare services to all Maltese citizens, including the Maltese diaspora. Where Malta does not have a Reciprocal Health Agreement with a partner country, however, the consulate and embassy officials' assistance is limited to tending to logistical needs and liaising with local authorities. Conforming with small state trends, human capital is leveraged and logistical assistance favoured over expending limited material

resources. Fortunately, the rise of online services is revolutionizing the way the government can provide select services to its diaspora communities, including mental healthcare and access to job training.

Whilst these steps have been taken to support the communities of Maltese abroad, there are still essential steps to be taken to ensure their full democratic participation. This is because physical presence in Malta is a requirement for the qualification of voters in all types of elections. Although no rule expressly forbids expatriate citizens from voting, they must return to Malta at their own expense to do so in person; the financial and logistical difficulties thereby continue to disenfranchise those who cannot afford it, and the country bears unnecessary, hefty costs by subsidising flights during elections. This is a peculiarity of Malta because the majority of EU countries allow external voting through their representations, by postal vote or online, yet Maltese politicians have remained unwilling to cede to the petitions of their citizens living abroad. Where technology has enabled increasing deterritorialization of national health policies, it should be harnessed more fully by the Maltese to enfranchise their electorate, demonstrate trust in the democratic process, and to further fortify their engagement with diaspora through economical and concrete means.

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# Chapter 21

## Diaspora Policies, Consular Services and Social Protection for Dutch Citizens Abroad



Joost Jansen and Robbert Goverts

### 21.1 Introduction

In this chapter, we aim to provide an overview of the Dutch diaspora policy infrastructure and key policies (e.g. cultural, economic, and political) implemented in the Netherlands. This chapter is predominantly based on publicly available information on various websites of the Ministry of Foreign Affairs, as well as informal interviews with officials from the Ministry. The chapter is structured as follows. First, we present some key characteristics of the (history of the) Dutch diaspora and a discussion about a recent controversy over dual citizenship, which together provide a context for the architecture of diaspora engagement policies in the Netherlands. More specifically, a political climate that prioritizes immigration policies and appeals to individual responsibility provides the context in which the Dutch Government engages with Dutch citizens living abroad. Next, we present a short overview of the Dutch diaspora infrastructure, followed by a discussion about the extent to which the Dutch Government engages with its citizens abroad. In what follows, we discuss the degree to which the Netherlands employs social protection policies that aim to provide assistance to Dutch nationals residing abroad. We conclude this chapter by discussing how this chapter's findings can be situated within the broader Dutch social and political climate and theoretical perspectives on policies of emigration.

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## 21.2 Diaspora Policy Infrastructure and Key Policies

### 21.2.1 *The Dutch Diaspora and Its Relations with the Homeland*

While the Netherlands can be primarily typified as a typical (perhaps reluctant) ‘country of immigration’ preoccupied with managing immigration and immigrant integration (Hollifield et al. 2014), emigration has always been an important (and sometimes somewhat neglected) component of the Dutch migration history. The first decades following World War II were characterized by high levels of emigration and active interference by the Dutch Government (Van Dalen and Henkens 2007). The initial relief about the ending of World War II soon started to make place for concerns about the post-war reconstruction of the country, increasing unemployment and housing shortages, for which the Dutch Government did not have an immediate solution (Van Dalen and Henkens 2008). According to Van Dalen and Henkens (2007, p. 41) this “belief that the Netherlands was overcrowded and faced the prospect of permanent unemployment” led to a period of governmentally-induced ‘planned migration’ (Petersen 1955). Active emigration policies of the Dutch Government caused an exodus of native-born Dutch to Canada, Australia and the United States. In the 1950s, about 125,000 Dutch emigrants settled in Canada, 100,000 in Australia and 50,000 in the United States (Nicolaas and Sprangers 2005). Research shows that, at that time, (social) after-care for native-born emigrants was not seen as a Dutch responsibility by the Dutch Government (Walker-Birkhead 1988).

The central question of this chapter is to what extent the Dutch Government nowadays actively interferes with the lives of Dutch nationals residing abroad. The past decades show an upward trend in the emigration level among Dutch nationals (Nicolaas and Sprangers 2005; Van Dalen and Henkens 2007; CBS 2018). Until today, Canada, Australia and the United States continue to count large numbers of Dutch emigrants (Van Dalen and Henkens 2007). Canada, for instance, hosts approximately 99,000 Dutch citizens (OECD 2015). Next to the traditional emigration countries in which large numbers of Dutch citizens reside, new popular countries of destination among Dutch emigrants are Belgium and Germany. In comparison, while in the 1950s, only 3000 and 2000 Dutch citizens emigrated to Belgium and Germany, respectively, their numbers had more than doubled in 2003 (Nicolaas and Sprangers 2005). Recent figures (OECD 2015) show that approximately 135,000 Dutch nationals live in Germany and roughly 110,000 in Belgium. Furthermore, research indicates that relatively highly educated Dutch nationals have a higher probability to emigrate (Van Dalen and Henkens 2007, 2013; OECD 2015).

Before discussing the Dutch diaspora infrastructure in the next section, we first want to address a contextual factor that, although perhaps not directly influencing current social policies of the Dutch Government aimed at its citizens abroad, might be indicative of the relatively moderate degree of active engagement with Dutch nationals living abroad (which forms the central conclusion of this chapter)



compared to some other European countries discussed in this book. In 2011, the Dutch Government expressed a wish to further restrict the already relatively restrictive policy on dual citizenship, which caused an outburst of major public and political controversy. The proposed further restrictions of dual citizenship policy entailed removing some of the exceptions to the renunciation of their previous citizenship for immigrants who wish to acquire Dutch citizenship; vice versa, Dutch nationals who wish to acquire the citizenship of another country automatically lose their Dutch citizenship (Vink et al. 2019). According to the Dutch Bureau of Statistics, over 60% of the Dutch population were supportive of such a further restriction of dual citizenship (CBS 2011). The then widely supported negative stance towards dual citizenship in the Netherlands should primarily be understood within the context of, as noted by Vink et al. (2019, p. 97), “intolerance towards dual citizenship for immigrants, but to tolerance of such a status among Dutch natives abroad”. However, the consequences of implementing strict dual nationality policies would have been enormous for the Dutch diaspora, as some of them risked being stripped of their Dutch nationality. Eventually, a successful lobby of the Dutch emigrant community made that the proposal was abandoned. Vink et al. (2019, p. 91) argue that this episode shows “the significant political cloud of the Dutch diaspora in dual citizenship legislation.”

Although the prospect of (dual) nationals losing their Dutch citizenship was averted, we would argue that this episode could be interpreted as being illustrative of a more general climate of moderate active engagement with the Dutch diaspora abroad. As we shall see in the remaining sections of this chapter, we believe that two factors, namely i) a political context that prioritizes managing immigration and immigrant integration (rather than emigration) and ii) a growing appeal to the individual responsibility and self-reliance of Dutch citizens, together provide a context in which extensive governmental policies aimed at engaging with the social protection of Dutch nationals abroad appear to be relatively limited. In the following sections, we will discuss the key characteristic of the diaspora policy infrastructure and the key policies implemented in the Netherlands.

### ***21.2.2 Diaspora Infrastructure***

In the Netherlands, consular matters fall under the responsibility of the Consular Affairs and Visa Policy Department (DCV), which is one of the clusters of foreign policy areas, or themes, installed and directed by the Dutch Ministry of Foreign Affairs (founded in 1798). Worldwide, the Kingdom of the Netherlands (i.e. the Netherlands, Aruba, Curacao, and Sint Maarten) holds approximately 140 diplomatic posts, such as embassies and consulates. While not formalised in official policy documents, officials from the Ministry stated that in some cases, such as in Australia, mobile consular services are offered to citizens residing in geographic areas that are not located in the vicinity of an embassy or consulate. Furthermore, it should be noted that there are no institutions separate from the ministries dedicated

to addressing the needs of Dutch nationals abroad, nor do there exist officially recognized representative or consultative institutions by which Dutch citizens residing abroad can be represented or through which Dutch nationals can address their questions of interest. Similarly, we found that Dutch political parties have no departments within their organizations that are dedicated to dealing with Dutch nationals residing abroad.

Another typical feature of the Dutch diaspora policy infrastructure is that it does not offer country specific policies for its nationals abroad. For example, the Ministry of Foreign Affairs or DCV have not developed diaspora policies that specifically target Dutch nationals residing in one of the top five countries where Dutch citizens abroad live (in decreasing order of absolute numbers: Germany, Belgium, Canada, the United States, Australia). Only for Dutch nationals living and working in Germany and Belgium, there is a website<sup>1</sup> that provides tailored information on issues such as taxes, social insurance, and health insurance. This website is a joint initiative of the Ministries of Finance and Social Affairs, the tax authorities, the Social Insurance Bank, and the Employee Insurance Agency. However, it should be noted that the website is not managed by (a department of) the Dutch Ministry of Foreign Affairs. The information provided originates from the institutions, which are also listed under section II of this chapter, and that are responsible for the various domains of social protection.

### ***21.2.3 Key Engagement Policies***

On its website, DCV (Government 2019) states that it “offers citizens, businesses and government high-quality consular services. It is also responsible for visa policy and visa-related services. DCV serves as a safety net for Dutch interests abroad and is the first point of contact for nationals of other countries wanting to come to the Netherlands for personal or business reasons.” However, as demonstrated in prior research (Vermeer-Künzli 2010, 507), “the Dutch legal order does not recognize any right to either consular assistance or diplomatic protection.” Moreover, the Dutch Government “considers that consular assistance often is a matter of tailored service” (Vermeer-Künzli 2010, 509). Legally, this means that the Ministry, embassies, and consulates have no obligations to assist Dutch nationals residing abroad. While not specifically aimed at nationals living abroad, but rather at nationals who stay abroad for shorter periods of time, the Ministry of Foreign Affairs always emphasizes the importance of a decent (travel) insurance, individual responsibility, and carefulness. The Ministry’s advice points at the emphasis it places on the self-reliance of Dutch citizens. However, in practice, recent cases of emergency demonstrate a general willingness of the Dutch authorities to provide

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<sup>1</sup> [www.grensinfopunt.nl](http://www.grensinfopunt.nl). Accessed 16 March 2020.

consular assistance or services to Dutch citizens abroad who were in serious need (Kopinga 2018).

Informal interviews with officials from the Ministry and information on its websites indicate that DCV is primarily concerned with the provision of basic information, assistance, and services. Via an online portal specifically designed for Dutch nationals residing or working abroad,<sup>2</sup> by phone via the '24/7 BZ Contact Centre',<sup>3</sup> and via Twitter,<sup>4</sup> the Ministry aims at streamlining the provision of information to Dutch nationals who live, work, study, travel, and do business abroad. Dutch nationals can ask questions about consular matters, like passports, other legal documents, and travel advice. Also, they can contact the 24/7 BZ Contact Centre in an emergency, for example, if they are admitted to a hospital abroad or lost their passport. Overall, the information provided at the online portal varies from renewing passports and identity cards, to information about voting in Dutch elections while residing abroad. Oftentimes, information on specific domains merely consists of referrals to other (public) organisations responsible for the domain in question. For instance, with regards to pensions and social benefits, the portal refers to the websites of the Social Insurance Bank and the Employee Insurance Agency, respectively.

### ***21.2.4 Engaging with Dutch Nationals Abroad***

In what follows, we will discuss in more detail to what extent the Dutch Ministry of Foreign Affairs engages with Dutch nationals abroad regarding electoral rights, repatriation, education, housing, return, and business.

Firstly, except for citizens residing in Aruba, Curaçao and Sint Maarten, Dutch citizens residing permanently abroad are allowed to vote for national elections and referenda while living abroad (also see Schrauwen 2013). Moreover, they are allowed to run as candidates for Upper and Lower House elections. While for provincial and municipal elections voting is not possible for Dutch citizens residing abroad, they can stand as candidates if they sign a declaration showing that, once elected, "they intend to take up residence in the relevant province or municipality" (Schrauwen 2013, p. 5). Having officially registered (online) as a voter, voting is possible in numerous ways. Dutch nationals abroad can vote either by post, by proxy, or by casting their ballot in the Netherlands.

Secondly, regarding repatriation to the Netherlands, no official policies exist. Although consular services and obligations are set down in the 1968 Consular Relations Act, which gave effect to the Vienna Convention on Consular Relations, consular assistance in the Netherlands is based on policy and not legal right. Therefore, the Netherlands is under no legal obligation to provide consular

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<sup>2</sup> [www.netherlandsworldwide.nl](http://www.netherlandsworldwide.nl). Accessed 16 March 2020.

<sup>3</sup> 24 h a day, 7 days a week on +31 247 247 247.

<sup>4</sup> @247BZ.

assistance. Assistance can only be provided *ratione personae*, that is, by reason of the person concerned. For example, the Ministry of Foreign Affairs was partly responsible for the repatriation of the victims' remains and personal belongings of Dutch nationals who lost their lives in the MH17 crash in 2014. This example shows that, especially in exceptional cases of emergency, the Dutch Government is willing to provide extensive consular assistance.

Thirdly, with respect to Dutch education abroad, although not part of the Ministry of Foreign Affairs, the online portal refers to the Foundation for Dutch Education Worldwide, which is a network for Dutch education commissioned by the Ministry of Education, Culture and Science, that aims at promoting and supporting high standards of Dutch education for Dutch-speaking children around the world.

Lastly, the Ministry has not implemented any policies by which the Netherlands (1) provides financial incentives to nationals residing abroad to purchase real estate in their home country; (2) encourages the return of citizens residing abroad to the home country; (3) facilitates or provides incentives to send remittances; or (4) provides incentives to invest in/create productive activities (i.e. business) in the Netherlands. Regarding the latter point, the Ministry states that it predominantly aims at promoting the interests of Dutch nationals who want to do business abroad.

### 21.3 Diaspora Policies and Social Protection in the Netherlands

As we already discussed in the previous section, the Dutch Government does not employ official and extensive policies that aim to address the social needs of Dutch nationals residing abroad. In interviews with officials from the Ministry, it was stressed that, to an important extent, the Ministry appeals to the individual responsibility and self-reliance of Dutch citizens. In this respect, the effective provision of reliable and good quality information is conceived as crucial. This finding resonates well with the broader changing political and policy climate in the Netherlands, from welfare state to 'participation society',<sup>5</sup> in which the Dutch Government increasingly emphasizes 'responsibilization' (see Van Houdt et al. 2011) and seeks to facilitate and empower its citizens rather than offering them a (strong) helping hand (Veldheer et al. 2012). While these transformations are often studied in relation to immigration and integration policies, we would argue that they could also help understand the extent to which Dutch diaspora policies are developed in the current political and social climate.

In light of such strong emphasis on individual responsibility, the Consular Affairs and Visa Policy Department (DCV), as a part of the Ministry of Foreign Affairs, is primarily concerned with offering information, assistance, and services, both online and offline, via the 24/7 Contact Centre. In the 2017 coalition agreement (Tweede

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<sup>5</sup>The notion of participation society aligns well with its British counterpart "Big Society".

Kamer 2017), the four government parties (VVD, CDA, D66, CU) announced to expand and strengthen the Dutch representation abroad by introducing a new digital counter, a so-called ‘one stop shop’, where Dutch nationals living abroad can navigate to for public services and products (e.g. passports). The objective of this digital counter is to centralise and facilitate the provision of tailored information and services (such as identity documents or life certificates).

Again, this underlines the idea that the Ministry is primarily concerned with streamlining the provision of information and basic services, and not so much with implementing policies or programmes that actively aim to provide social protection or assistance to Dutch nationals abroad. In the following section, we will discuss five social protection areas to which this Dutch Government perspective on the assistance of its citizens abroad by the Ministry of Foreign Affairs also applies.

### ***21.3.1 Unemployment***

As provided by the European Union (EU) legislation, an unemployed individual who receives unemployment benefits can leave the country to search for work in another EU Member State and continue to temporarily receive Dutch unemployment benefit. Other than referring to the Employee Insurance Agency (UWV), the Ministry of Foreign Affairs itself does not employ policies to assist unemployed Dutch nationals residing abroad in any way. The UWV is an autonomous administrative authority, commissioned by the Ministry of Social Affairs and Employment (SZW) to implement employee insurances and provide labour market and data services. The extent to which Dutch nationals residing abroad are entitled to claim unemployment benefits from countries of residence’s unemployment insurance naturally entirely depends on one’s particular situation (e.g. type of unemployment, living in an EU Member State or in a third country, being insured in the Netherlands or not, etc.).

### ***21.3.2 Health Care***

In general, the Ministry of Foreign Affairs has not implemented policies or programmes that aim at providing services to Dutch nationals living abroad in dealing with health risks. For instance, if Dutch nationals are unexpectedly admitted to a hospital in foreign countries, they are advised to call their insurers’ emergency support centres. In case someone is not insured for medical treatment in a foreign country, the embassy can contact the family in the Netherlands to transfer money to the person in need. Typically, the Ministry does not offer financial support. Financial advances are rarely given, and only if the Dutch national abroad signs a declaration in which s/he promises to repay the advance loan (see also Vermeer-Künzli 2010, p. 514).

### **21.3.3 Pensions**

The Ministry of Foreign Affairs itself does not assist Dutch citizens residing abroad to access their home or host country pensions and old-age benefits. The Ministry only refers to the website of the Social Insurance Bank (SVB), the organisation that pays out pensions. However, the SVB asks from Dutch nationals living abroad to fill in a form about their personal situation once or twice a year, as well as to send the SVB an official life certificate (which can be provided by the Dutch embassy or consulate). As shown in volume 1 of this series (see the country chapter on the Netherlands by Pennings 2020), Dutch citizens residing abroad can continue receiving old-age pensions in their countries of residence. However, when residing outside the EU, the amount received can be reduced unless a bilateral social security agreement specifies otherwise.

### **21.3.4 Family-Related Benefits**

In the case of accessing home country family-related benefits, the Ministry refers to the Social Insurance Bank, which is also responsible for paying out child benefits and national survivor benefits. Dutch nationals who start living abroad but continue to work in the Netherlands, can usually keep their Dutch child benefits. If they start working outside the Netherlands, however, their Dutch child benefits will normally stop. In case of national survivor benefits, the SVB will continue to pay the benefits after one starts living in a country with which the Netherlands has an agreement (e.g. EU and European Economic Area (EEA) countries).

### **21.3.5 Economic Hardship**

From the interviews with officials from the Ministry of Foreign Affairs, as well as the information that is provided through the website of the Ministry, we did not find any indication for the existence of policies or programmes by which the Ministry of Foreign Affairs assists Dutch nationals residing abroad in accessing guaranteed minimum resources. The Ministry largely appeals to the individual responsibility of its citizens abroad. This is well in line with what Vermeer-Künzli (2010, p. 517) states, namely that “the information provided through the Ministry’s website gives the impression that it is intended to warn Dutch nationals that the Dutch authorities will not give out money, cannot provide release from jail and assume that individuals travel wisely and well-prepared.”

## 21.4 Conclusions

In this chapter, we discussed the Dutch diaspora policy infrastructure and key policies implemented in the Netherlands. Based on publicly available information, our main conclusion is that, rather than actively providing its nationals abroad with assistance in various domains of social protection, the Dutch Ministry of Foreign Affairs conceives of itself mainly as a facilitator that provides consular assistance in cases of emergency on an ad-hoc basis. This conclusion was confirmed in interviews with officials from the Ministry and reflected in its online (e.g. effective information provision its website and introduction of ‘one stop shop’) and offline practices (e.g. repatriation of victims MH17).

In practice, these findings imply that the consular services provided to Dutch nationals abroad are limited to basic consular services and assistance, while also being discretionary in nature. With regards to key areas of social protection, such as health care and social benefits, the Ministry tends to refer to other organisations responsible for the domains in question. By itself, the Ministry does not provide additional services or assistance to Dutch citizens living abroad. In case of calamities or emergency situations, the Ministry, embassies, and consuls have discretion to decide whether or not to assist a Dutch national and, if so, in what way. This, however, is not formalised in the Dutch legal order (cf. Vermeer-Künzli 2010).

The Ministry’s stance towards Dutch nationals living abroad could be understood in relation to the broader social and political context in which governmental policies aimed at engaging with the Dutch diaspora appear to be rather limited. In a broader theoretical light, as a typical ‘country of immigration’ (Hollifield et al. 2014), the Netherlands prioritized less its diaspora policies within the current political climate. Moreover, in line with an increasing neoliberal appeal to the individual responsibility and self-reliance of its citizens (‘responsibilization’), the Dutch Government does not – that is, publicly – employ social protection policies concerning its nationals abroad. Therefore, the Dutch diaspora policy can, to a large extent, be characterized as ‘non-policy as policy’ or ad-hoc policy. Assistance and protection can be provided, but are not guaranteed.

In light of these findings, the Netherlands substantially differs from typical countries of emigration, such as Ireland, Mexico, the Baltic States, or Israel. These countries conceive of the development of successful diaspora policies that aim at maintaining links with their nationals abroad as pivotal in preserving cultural linkages, as well as mobilising the human capital and financial resources of their diaspora, the latter with the aim of fostering long-term economic growth in the home country (Engbersen and Jansen 2013). Not being a typical country of emigration, Dutch socio-economic diaspora policies seem to be fairly limited, and insofar as they exist, they are predominantly concerned with, for instance, exporting knowledge and starting businesses abroad (thereby appealing to the individual responsibility of its citizens), and not so much with areas of social protection. Given the upward trend in emigration levels among Dutch nationals and the fact that Dutch emigrants are likely to be relatively highly educated, we would argue that a more

extensive diaspora infrastructure could potentially harness positive effects, such as the mobilization of economic and human capital.

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# Chapter 22

## Diaspora Policies, Consular Services and Social Protection for Polish Citizens Abroad



Magdalena Lesińska and Izabela Wróbel

### 22.1 Introduction

This chapter presents a general overview of the Polish policy towards diaspora and social protection of Polish citizens residing abroad. The main goal is to present the institutional framework, general strategy and concrete activities the Polish state offers its citizens and persons of Polish origin residing abroad. The discussion focuses on diaspora institutions including government bodies and non-government organizations engaged in providing assistance and services to Poles abroad, as well as key engagement policies addressed to them (such as voting rights, repatriation and return, and education). The main part is devoted to diaspora policies and social protection in Poland and provides detailed information about five policy areas: unemployment, health care, pensions, family benefits and guaranteed minimum resources. The chapter shows that the main goal of Polish diaspora policies is to consolidate the diversified and dispersed Polish communities abroad by maintaining and strengthening national identity and promotion of Polish language and culture among Poles residing in other countries.

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## 22.2 Diaspora Characteristics and Home Country Engagement

### 22.2.1 *The Polish Diaspora and Its Relations with the Homeland*

Poland has always been a predominantly emigration country, and its history has been marked by successive outflows. Understanding the logic of the Polish diaspora policy and infrastructure for nationals abroad, which was developed during the last decades, requires at least a basic introduction to the diversity of the Polish diaspora. There were several mass waves of emigration from Poland in 20th and 21st centuries. The causes for emigration were mixed (political and economic) and, as a result, “a diaspora of workmen and a diaspora of victims” was formed (Walaszek 2001). The latest wave was a direct effect of Poland’s accession to the European Union (EU) in 2004, when Poles were granted the right of free movement and of employment in other Member States. Because the waves of emigration differed significantly in their causes and in the socio-economic profile of emigrants, it is important to note the strong internal divisions within the Polish diaspora. Some authors go as far as to distinguish several Polish diasporas to underline the permanent diversification of Polish populations abroad (Garapich et al. 2009).

The picture of Polish diaspora is also complex because a significant part of it is formed by ethnic Poles who never emigrated, but happened to find themselves living outside the territory of Poland as a result of the country’s borders being shifted after World War II. This situation occurred to Poles living in neighbouring Eastern countries such as Lithuania, Belarus and Ukraine (this group is called “Polish minorities in the East”). Another group that has to be mentioned is formed by descendants of forced displaced Poles to Siberia and other parts of the Russian empire during the 19th and 20th centuries. This population is directly targeted by Poland’s repatriation policy, a central feature of the country’s diaspora policy.

The estimated size of the Polish diaspora (as all people with Polish roots living outside the country) made by the Ministry of Foreign Affairs (MSZ) comprises 15–20 million people.<sup>1</sup> Among them, over 11 million are in North America, 4,2 million in Europe, and nearly one million in the post-Soviet area. It is estimated that only one third of diaspora members were born in Poland. It is also important to highlight that these numbers provided by the Ministry of Foreign Affairs refer mostly to persons of Polish origin (next generations of emigrants and kin-minorities). According to the latest estimates of the Central Statistical Office in Poland (GUS), at the end of 2016, approximately 2,5 million Polish nationals were residing abroad

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<sup>1</sup>MSZ (Ministry of Foreign Affairs) (2015). *Rządowy program współpracy z Polonią i Polakami za granicą w latach 2015–2020* [Government program of cooperation with the Polish diaspora and Poles abroad in the years 2015–2020]. Warsaw.

for more than 3 months (i.e. approximately 6% of Poland's population).<sup>2</sup> There are serious problems with reliable statistical data regarding the Polish population residing abroad. Also, according to the law, Polish citizens who leave the country with the intention of temporary (longer than 6 months) or permanent residence abroad are obliged to report this to the municipal office, although many emigrants fail to comply with this obligation and maintain an official residence in Poland while living abroad.

Overall, it can be argued that the Polish diaspora is a fragmented population that includes at least three important groups targeted by diaspora policies: post-accession migrants (labour migrants and their families in the EU), economic and political migrants who left Poland before 2004 and their descendants (the so-called "old Polonia") and co-ethnics in the East (Stefanska 2017). The most important settlement countries of the Polish diaspora (in the past and today), chosen as such for detailed evaluation in this chapter, are as follows: Germany, the United Kingdom (UK), the United States (US), Canada and Ireland.

The frequently used term for Polish communities abroad is "Polonia" (traditionally applied to the Polish population in the US). In official documents, however, the term that is usually applied is "Polonia and Poles abroad," which has a broader scope and includes Polish emigrants and Polish minorities in addition to people of Polish origin.

### 22.2.2 *Diaspora Infrastructure*

The diaspora policy in Poland is implemented, in practice, by several different bodies within the governmental administration. The minister competent for foreign affairs coordinates all actions related to the cooperation with Polish communities abroad. The main legislative body in this area is the Senate (the upper house of the Polish Parliament). The infrastructure framework also includes bodies within other ministries, as well as semi-public foundations that cooperate directly with diaspora organisations abroad.

The most important institution in the governmental administration engaged in the diaspora policy is Ministry of Foreign Affairs (MSZ). The Department of Cooperation with Polonia and Poles Abroad carries out both the executive functions arising from the MSZ's coordination of this subject matter within the Government and oversees diaspora policy implementation by diplomatic missions. Additionally, within the MSZ's structure, there are a few territorial departments competent for activities in particular regions (Europe, former Soviet republics, and the Americas).

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<sup>2</sup>GUS (Central Statistical Office) (2017). *Informacja o rozmiarach i kierunkach czasowej emigracji z Polski w latach 2004–2016* [Information on the size and directions of emigration from Poland in the years 2004–2016]. <https://stat.gov.pl/obszary-tematyczne/ludnosc/migracje-zagraniczne-ludnosci/informacja-o-rozmiarach-i-kierunkach-emigracji-z-polski-w-latach-20042016,2,10.html>. Accessed 16 August 2018.

These departments are responsible for collaborating with Polish communities in connection with bilateral inter-state relations, in particular those referring to the protection of the rights of Poles abroad. There is also the Department of Public and Cultural Diplomacy, which is competent for public diplomacy and responsible for cooperation with the Polish communities abroad in promoting Poland. The Consular Department's task is the consular protection of Polish nationals abroad, and overseeing the consular network.

Currently, the diplomatic and consular network, including mobile and honorary consulates, comprises embassies in 91 countries (in 10 countries there is a consular department at the embassy), 33 general consulates in 19 countries, and honorary consulates in 99 countries.<sup>3</sup> In urgent cases, mobile consular points can be opened for a specific period of time (e.g. two of them were organised in Russian cities where the Polish team played during 2018 Football World Cup). The MSZ is responsible for preparing the key documents on diaspora policy, such as the Program of Cooperation with Polish Communities Abroad (adopted by the Government, as explained below) and devoted to diaspora issues (such as the Atlas of the Polish presence abroad<sup>4</sup> and the Report on the situation of the Polish diaspora and Poles abroad<sup>5</sup>).

Specific tasks are also carried out by other ministers and central offices. Within the structure of the Ministry of National Education, an important role is played by the Centre for the Development of Polish Education Abroad (ORPEG), which supports the teaching of the Polish language, education in Polish and education about Poland among Poles living abroad (especially children).<sup>6</sup>

One of the tasks of the Ministry of Family, Labour and Social Policy (of the Department of the Labour Market, in particular) is the protection of Polish workers abroad by signing bilateral agreements regarding social security, employment or avoiding double taxation, among others. It is also responsible, together with the Ministry of Internal Affairs, for facilitating the return of emigrants to Poland. The Ministry of Internal Affairs formally coordinates Poland's migration policy in general (including its repatriations policy). Among other bodies, it is also worth mentioning the Office for War Veterans and Victims of Oppression. Subordinated to the Ministry of Family, Labour and Social Policy, this Office grants a special status with associated rights and benefits to Polish veterans living abroad.<sup>7</sup> Lastly, the Polish Agency for Academic Exchange (within the Ministry of Science and Higher Education) coordinates the scholarship program addressed to young persons of Polish origin.<sup>8</sup>

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<sup>3</sup> [https://www.msz.gov.pl/pl/informacje\\_konsularne/polskie\\_placowki/](https://www.msz.gov.pl/pl/informacje_konsularne/polskie_placowki/). Accessed 16 August 2018.

<sup>4</sup> [https://www.msz.gov.pl/pl/polityka\\_zagraniczna/polonia/atlas\\_polskiej\\_obecnosci\\_w\\_swiecie/](https://www.msz.gov.pl/pl/polityka_zagraniczna/polonia/atlas_polskiej_obecnosci_w_swiecie/). Accessed 16 August 2018.

<sup>5</sup> There were two reports published until now, in 2009 and 2012: [https://www.msz.gov.pl/pl/polityka\\_zagraniczna/](https://www.msz.gov.pl/pl/polityka_zagraniczna/). Accessed 16 August 2018.

<sup>6</sup> <http://www.orpeg.pl/index.php/about-us>. Accessed 16 August 2018.

<sup>7</sup> <http://www.kombatanci.gov.pl/en/the-office/about-the-office.html>. Accessed 16 August 2018.

<sup>8</sup> <https://nawa.gov.pl/en/nawa>. Accessed 16 August 2018.

Besides governmental bodies, key institutions in pursuing the diaspora policy are also the Chancellery of the President of the Republic of Poland, the parliamentary committees of the Lower (*Sejm*) and Upper (Senate) houses, and semi-public foundations.<sup>9</sup> Moreover, there are non-governmental organizations (NGOs), diaspora associations, clergy and church institutions, which also are active in diaspora policy implementation in practice.

Among them, the role of the Senate has been particularly relevant, as a body with a long tradition of being the institution responsible for the cooperation with the Polish diaspora (since the interwar period). The public financial sources dedicated to the diaspora have been allocated every year in the budget of the Chancellery of the Senate.<sup>10</sup> One of over a dozen of Standing Committees in the Senate is the Emigration Affairs and Contacts with Poles Abroad Committee. There is also an administrative body called the Polonia Bureau (*Biuro Polonijne*) that informs Senators and the Senate Chancellery in matters concerning the Polish diaspora.<sup>11</sup>

Polish political parties have not established any specific and separate infrastructure abroad, although during some candidates organise temporary offices in main destination countries of the Polish diaspora to run their electoral campaigns there.

There is also a consultative infrastructure dedicated to diaspora issues. The main consultative platform is the Polish Diaspora Consultative Council established by the Marshal of the Senate in 2002. It is composed by representatives of major Polish diaspora organisations from all over the world (up to 12 members proposed by diaspora organisations and appointed by the Speaker of the Senate, they are nationals residing abroad or persons with Polish origin). The Council's mandate coincides with that of the Senate. The Council has the task of giving opinions on issues that are important for the Polish diaspora and on draft legislation concerning Poles abroad. These opinions are not legally binding, but they may be taken into account by the Presidium of the Senate.

There are also consultative bodies established in destination countries. The Polish Community Consultative Councils consist of 10–15 experts nominated by the Ambassador or Consul General. The aim of these bodies is to cooperate with the Ministry of Foreign Affairs in matters important for the Polish diaspora. The members are nationals residing abroad or persons with Polish origin active in diaspora organisations. The Councils should meet at least once a year. The consultation process with the Councils is not obligatory. In practice, the appointment of the Council,

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<sup>9</sup>There are several foundations controlled by state institutions (operating under the patronage of the Polish Senate or the MSZ) whose main aim is cooperation with Polish diaspora organizations. These foundations receive funds directly from the state budget, such as the Polish Community (*Wspólnota Polska*) or Help Poles in the East (*Pomoc Polakom na Wschodzie*).

<sup>10</sup>During the period 1989–2019, the state funds dedicated to diaspora were allocated in the Senate (except for the period 2012–2016 when they were allocated in the MSZ). Since 2020, the Government directly controls the budget dedicated to diaspora. In last few years, it amounted to about 100–110 million PLN annually (approximately 23–26 million EUR).

<sup>11</sup><https://www.senat.gov.pl/kancelaria/struktura-organizacyjna/biuro-polonijne/>. Accessed 16 August 2018.

as well as its composition and the scope of its activities, depend on the decision of the Ambassador or Consul General in each particular country.

Another consultative body is the World Congress of Polish Community and Poles Abroad, which is organised every few years under the patronage of the Senate and/or the President of Poland.<sup>12</sup> It takes place in Poland and the delegates are representatives of diaspora organisations from all over the world. The Congress's agenda includes debates of several thematic committees, which are related to issues ranging from the promotion of Polish culture abroad to the situation of the Polish minorities in the Eastern countries.

### 22.2.3 *Key Engagement Policies*

In August 2015, the Government Programme of Cooperation with Polish Community Abroad for 2015–2020 was adopted.<sup>13</sup> The document includes, among others, the main directions and aims of the diaspora policy and underlines the principle of partnership in cooperation between the Polish Government and the Polish communities abroad. The Programme outlines five strategic goals of the diaspora policy: 1) supporting the teaching of the Polish language and teaching in Polish among the Polish diaspora, especially children; (2) maintaining and reinforcing Polish identity by widening access to Polish national culture; (3) capacity building for Polish associations abroad; (4) supporting Polish emigrants in their return to Poland and facilitating the settlement in Poland of people of Polish descent and; (5) developing contacts between the diaspora and Poland with a focus on youth, science, culture and the economy.

One of the goals of the Polish diaspora policy is to sustain links between Poles residing abroad and the Polish state. One of the instruments to achieve this includes the recognition of the possibility to vote from abroad. Polish citizens who live permanently or temporarily outside Poland, even when they possess the nationality of another country, have the right to vote from abroad in parliamentary and presidential elections and in referendums held in Poland. The only requirements are the age threshold (18 years or more on the day of the elections), holding the Polish citizenship (confirmed by a valid Polish passport or ID document when voting in the EU country) and prior voter registration (up to 3 days before election day at the latest) on list of voters abroad (Korzec, Pudzianowska 2013). The registration takes place at the consulate or by filing an online application. Polish citizens living abroad also have the right to stand as candidates in national elections (parliamentary and

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<sup>12</sup>The first Congress took place in 1992, five of them were organized until 2018.

<sup>13</sup>[https://www.msz.gov.pl/pl/polityka\\_zagraniczna/polonia/rzadowy\\_program\\_wspolpracy\\_z\\_polonia/](https://www.msz.gov.pl/pl/polityka_zagraniczna/polonia/rzadowy_program_wspolpracy_z_polonia/). Accessed 16 August 2018.

presidential), which means that residence in Poland is not required to run for office. Voting from abroad is possible in polling stations established in other countries.<sup>14</sup>

The system implemented in Poland is called “assimilated representation”. It means that all the votes from abroad are assimilated in one voting district in Warsaw (which is one of the 41 voting districts in Poland and actually, one of the largest ones). The highest level of electoral participation of Poles abroad over the last 25 years was recorded in the 2019 parliamentary elections when more than 348,000 voters were registered and more than 314,000 cast their votes. The votes cast abroad constitute around 1% of all votes recorded in any Polish national election, thus their actual impact on the overall results of the election at the state level is marginal (Lesińska 2014b).

One of the priority diaspora groups are persons of Polish origin residing in post-Soviet countries. Repatriation policy targets them, in particular the descendants of Poles forcibly displaced to Kazakhstan at the beginning of the twentieth century (Grzymała-Kazłowska, Grzymała-Moszczyńska 2014). After returning to Poland, repatriates are granted rather modest assistance in the form of partial reimbursement of the costs of travel, settlement and maintenance grant and free Polish language and adaptation courses. Soon after crossing the Polish border, repatriates (but not foreign members of their families) acquire Polish citizenship. Besides repatriation, an additional instrument is directed toward persons of Polish origins from post-Soviet countries, namely the Card of the Pole.<sup>15</sup> From the beginning of the stay in Poland, the holder of the Card is entitled to apply for a permanent residence permit and financial support for settlement (during the first 9 months).

There are also several activities that aim to facilitate the return of economic migrants and their reintegration in the labour market and the education system (in the case of minors) (Lesińska 2014a). During the 2007–2009 crisis in the EU, one such plan was developed in reaction to the potential return of Poles. An information campaign (“Have you got a plan to return?”) and an information portal (Returns, *Powroty*) were launched.<sup>16</sup> The portal provides a full package of information useful for returnees, such as administration procedures and formalities before and after return, how to search for a job or how to enrol children in the Polish school system. The portal still exists and, in the perspective of Brexit, would be a tool beneficial for potential returnees from the UK.

Supporting education in the Polish language abroad is one of the main priorities of the diaspora policy in Poland. ORPEG runs school consultation points at Polish diplomatic missions, currently in 37 countries.<sup>17</sup> It also provides innovative curriculums for Polish children residing abroad, Polish textbooks and teaching aids (such

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<sup>14</sup> Since 2011, voting from abroad was also possible by post, but the law changed again in 2018 and since then, only disabled persons are eligible to vote by post (Law of 11 January 2018 on amending certain laws to increase the participation of citizens in the process of selecting, operating and controlling certain public bodies, Journal of Laws of 2018, item 130).

<sup>15</sup> [https://baku.msz.gov.pl/en/consular\\_information/card\\_of\\_the\\_pole/](https://baku.msz.gov.pl/en/consular_information/card_of_the_pole/). Accessed 16 August 2018.

<sup>16</sup> [www.powroty.gov.pl](http://www.powroty.gov.pl). Accessed 16 August 2018.

<sup>17</sup> <http://www.orpeg.pl/index.php/schools-around-the-world>. Accessed 16 August 2018.



as online handbooks for children), online and distance learning (lessons and consultations conducted online in real time), advisory services and professional trainings for teachers working abroad.

Other institutions engaged in this field are also the Polish Institutes (*Instytuty Polskie*) whose main task is to disseminate Polish culture and national heritage. They organize cultural events, film festivals and lectures to promote Polish culture abroad. In many countries, the Polish Institutes also act as the department for culture and science of the Polish embassies.<sup>18</sup>

Economic cooperation with Polish communities abroad is one of the tasks of the Ministry of the Economy that operates abroad via the Trade and Investment Promotion Sections in Polish embassies, Polish Chambers of Commerce established abroad and the Polish Information and Foreign Investment Agency.<sup>19</sup> They cooperate with business organisations of the Polish diaspora and companies run by Poles or persons with Polish origins. The main goal is to encourage and facilitate Polish entrepreneurs from abroad to invest in Poland and to promote the Polish economy abroad.

Although there is no specific policy dedicated to Poles abroad related to remittances, it is worth mentioning that Poland signed a large number of bilateral arrangements (93) aimed, among others, at preventing double taxation with all EU countries and other primary destination countries for Polish emigrants.<sup>20</sup>

## 22.3 Diaspora Policies and Social Protection in Poland

Taking into account the massive scale of labour emigration from Poland since 2004 (in post-accession period), it could be expected that a policy facilitating the access to social protection of Poles abroad would have been significantly developed since then. In practice, however, few substantial changes in diaspora policy and legal procedures were introduced in this area. Generally speaking, consulates (including honorary consulates) are responsible for providing information and for undertaking concrete initiatives related to health and social security issues. Although it is difficult to discern any developed and comprehensive policy in the five areas discussed below, there are rather limited individual initiatives related to social protection. The most advanced are actions addressed to Poles in the East, such as repatriation policy

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<sup>18</sup> There are currently 24 Polish Institutions in the world: [https://www.msz.gov.pl/pl/p/msz\\_pl/polityka\\_zagraniczna/dyplomacja\\_publiczna/instytuty\\_polskie/instytuty\\_polskie/](https://www.msz.gov.pl/pl/p/msz_pl/polityka_zagraniczna/dyplomacja_publiczna/instytuty_polskie/instytuty_polskie/). Accessed 16 August 2018.

<sup>19</sup> <https://www.paih.gov.pl/en>. Accessed 16 August 2018.

<sup>20</sup> <https://www.finanse.mf.gov.pl/abc-podatkow/umowy-miedzynarodowe/wykaz-umow-o-unikaniu-podwojnego-opodatkowania>. Accessed 16 August 2018.

that is regulated in a separate legal act and is treated as a priority area within diaspora policy in Poland.<sup>21</sup>

### 22.3.1 *Unemployment*

There is no special policy addressing the issue of unemployment among Polish citizens abroad beyond what is provided by the EU framework. The services offered by consulates or diaspora organisations are limited to providing information about the legal status and the regulations applicable in particular countries for Poles as foreign workers in case of unemployment (including information related to accessing unemployment benefits). This kind of information can be found either on the websites of the Ministry of Foreign Affairs, embassies and consulates<sup>22</sup> or within the general information package addressed to Poles working abroad that is issued by the Ministry of Family, Labour and Social Policy.<sup>23</sup>

Additionally, full information about unemployment assistance and benefits provided by the destination countries, as well as the procedures for applying for them, can be found on the websites of Polish organisations in EU countries. Some of them also provide legal and psychological support and advice to Polish emigrants in need. These projects are often co-funded by Polish consulates from a budget dedicated to the diaspora.<sup>24</sup> Some Polish organizations also offer CV-writing and English-language courses to the unemployed or persons willing to change jobs (e.g. in Ireland or Germany).<sup>25</sup>

One example of Polish authorities' reactive policy to particular cases of discrimination against Polish workers abroad occurred in the Netherlands. When the media revealed temporary work agencies' discrimination against Poles and Polish workers' terrible working and residential conditions, the Dutch Government initiated a cooperation with Polish authorities to deal with this problem. The wide-scale information campaign addressed to those who plan to work in the Netherlands (before-departure information package) and those who are already resident there (information about social rights, anti-discrimination procedures, legal assistance) via dedicated

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<sup>21</sup> The Law on Repatriation of November ninth 2000 (with amendments).

<sup>22</sup> For example in Ireland: [https://dublin.msz.gov.pl/pl/info\\_konsularne/pobyt\\_w\\_irlandii/swiadczenia\\_spoleczne\\_1](https://dublin.msz.gov.pl/pl/info_konsularne/pobyt_w_irlandii/swiadczenia_spoleczne_1). Accessed 16 August 2018.

<sup>23</sup> [https://www.msz.gov.pl/pl/informacje\\_konsularne/poradniki\\_i\\_informatory/praca\\_i\\_pobyt\\_w\\_ue/praca\\_i\\_pobyt\\_w\\_ue](https://www.msz.gov.pl/pl/informacje_konsularne/poradniki_i_informatory/praca_i_pobyt_w_ue/praca_i_pobyt_w_ue). Accessed 16 August 2018. Information dedicated to issues related to searching for a job and social entitlements is a part of the Eures website (European Job Mobility Portal) <https://eures.praca.gov.pl/>. Accessed 16 August 2018.

<sup>24</sup> The Polish Embassy in Dublin informs on its website on assistance organisations in Ireland such as the Limerick Unemployment Forum or Together-Razem Support and Integration Center in Cork: [https://dublin.msz.gov.pl/pl/poloniam\\_w\\_irlandii/pozostala\\_dzialalnosc/](https://dublin.msz.gov.pl/pl/poloniam_w_irlandii/pozostala_dzialalnosc/). Accessed 16 August 2018.

<sup>25</sup> <http://together-razem.org/akademia/klinika-dobrego-cv/>; <https://polskarada.de/pl/polska-rada-porady>. Accessed 16 August 2018.

brochures and websites was organized. The Polish consulate in the Netherlands and the Dutch Embassy in Poland were very much engaged in these activities (Kaczmarczyk et al. 2012).

### 22.3.2 Health Care

Poland does not have any specific health care schemes or assistance for nationals residing abroad. Access to health services and medical treatment in EU destination countries is regulated by the EU law (in terms of coordinating social security systems and the rules related to the European Health Insurance Card for EU citizens staying temporary abroad) and by the national laws of destination countries (in terms of social and health benefits of foreign workers employed in this country). Polish institutions provide general information about the rights, legal status and law applicable in each particular country of residence in the area of health care. Detailed information related to health care systems in EU Member States can be found on the websites of the Ministry of Foreign Affairs and the Ministry of Health.

According to the Consular Law (articles 20.1 and 48.1), the consul provides assistance to a Polish citizen, in particular in the event of a serious accident or serious illness. In justified cases, the assistance may be granted by the consul in order to purchase necessary medicines and food or to pay for the necessary care if these people have documented their difficult situation. This kind of assistance does not have to be reimbursed.

There are no special policies and services by which consulates assist nationals residing abroad in accessing the health care system in their home country or the health services provided by host country authorities. The exceptions are special programs for persons of Polish origin residing in the post-Soviet countries. The aim of these programs is to co-finance the costs of medical materials and medicines, treatment or rehabilitation. These programs were implemented out of the conviction that the level of medical care in these countries is much lower than in Poland. Moreover, Polish co-ethnics living in the East are often elderly persons requiring proper medical care services. *Wspólnota Polska* leads one of such projects called “Medical Mission” which is funded by the Senate from public funds dedicated to the diaspora.<sup>26</sup> The program is addressed to permanent residents of Lithuania, Ukraine, Belarus and Moldova possessing Polish origin, which is confirmed by holding the Card of the Pole or on recommendation of a Polish organisation operating in the country of residence.<sup>27</sup>

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<sup>26</sup><http://wspolnotapolska.org.pl/misjamedyczna/>. Accessed 16 August 2018.

<sup>27</sup>The program regulations state that an applicant's health condition is the main criterion for evaluating an application, together with social criteria (an assessment based on the income per family member). The reimbursement of the costs is limited: purchasing medicines for an individual person is 5,000 PLN (approximately 1200 EUR), for reimbursement of rehabilitation and treatment it is up to 10,000 PLN (approximately 2400 EUR).

### 22.3.3 Pensions

The activities related to support for citizens abroad in the area of pensions are rather well developed. The EU regulations on social security coordination have superseded the bilateral social security conventions and agreements that had earlier bound Poland in relations with the Member States. However, several specific regulations beneficial for Polish citizens (between Poland and Austria, and Poland and Germany) in the form of bilateral agreements on social security still remain in force.<sup>28</sup> For example, one of these agreements provides crediting insurance periods completed by Polish employees pursuant to the 1988 agreement concluded with the former German Democratic Republic. Furthermore, Poland is bound by some bilateral social security agreements with non-EU states, including the US and Canada.

A central role in the field of social insurance is played by the Social Insurance Institution (ZUS). ZUS informs on its website about payment of benefits for people residing abroad; the countries to which ZUS can transfer benefits; who is entitled to receive their benefits abroad; which benefits can be transfer; what is the payment method and the taxation regulations; the effect of collecting foreign benefits on the pension right and amount; the impact of continuing to work on the right to retirement from ZUS, etc.<sup>29</sup> It is also worth mentioning that ZUS has made available in electronic form the possibility of asking questions and receiving responses on its website regarding pension benefits subject to EU and bilateral coordination.

Insurance counselling for Poles working or living abroad based on the Declaration of cooperation between ZUs and the Ministry of Foreign Affairs regarding joint information activities in the field of social security for Polish citizens abroad is an important initiative. Experts from the ZUS were present at the International Counselling Days in the main destination countries, such as Germany, the US or Canada. These events were co-organized by public insurance institutions from Poland and those in destination countries. Some main Polish embassies and consulates provide information by posting on the websites information material prepared for meetings of ZUS experts with the Polish diaspora.<sup>30</sup> In some main destination countries, like the UK, the US or Canada, consulates post “ZUS Information” on their websites, which concerns the possibility of asking questions related to social insurance issues and receiving the answers from the officials. Consular departments

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<sup>28</sup> <http://lang.zus.pl/en/legal-frameworks/international-legal-frameworks-binding-on-poland>. Accessed 16 August 2018.

<sup>29</sup> <http://www.zus.pl/swiadczenia/emerytura-i-renty-dla-osob-pracujacych/zamieszkalych-za-granica/wyplata/transfer-swadczen-dla-osob-zamieszkalych-za-granica>. Accessed 14 July 2018.

<sup>30</sup> The Embassy and all consulates in the US provide information about the implementation of the Polish-American agreement on social security. The Embassy in Dublin posted information on its website under the title “ZUS questions” with several presentations, including one about the ZUS electronic services platform, and a link to the ZUS website.

of embassies and consulates also provide services for issuing life certificates for Polish old age, invalidity and survivor pensions.<sup>31</sup>

There is no special information policy concerning the host country pension or any other host country benefit reserved for pensioners.<sup>32</sup>

Embassies and consulates also support financially the activities of non-governmental organisations in this area. An example in this regard is the Program “Informed Senior” (2018), conducted by the organisation Together-Razem in Ireland. During six meetings, seniors were informed about pension rights, social benefits and the principles of care for the elderly. The program plan includes meetings with representatives of Age Action (a well-known organisation working for the benefit of seniors) and employees of the Citizen Information Centre and lawyers cooperating with Together-Razem organization.<sup>33</sup>

#### 22.3.4 *Family-Related Benefits*

In Poland, there is no comprehensive and coherent policy addressed to families living abroad. The home country support to citizens abroad in the area of birth and family-related benefits is based on traditional solutions that have been used for decades (the possibility of registering births which take place abroad, availability of learning Polish abroad, etc.) and is characterised by a selective approach to the current needs of families with children, as exemplified by discounts for children travelling around Poland.

In certain circumstances, nationals residing abroad can obtain a birth certificate from home country authorities for their children born abroad. In the Polish register of marital status, the following registrations can be made at the request or *ex officio*: (1) the registration of a birth that occurred outside Poland that was not registered there and; (2) the registration of a birth that occurred outside Poland, if the interested parties’ marital status is not registered in the country where the child was born.<sup>34</sup> The consulates can be involved in the process, a written request for registration can be submitted to the consul who prepares the birth registration protocol and immediately submits it to the head of the registry office chosen by the applicant.

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<sup>31</sup> According to Articles 101 and 128 of Law of December 17th 1998 on Pensions from Social Insurance Fund in connection with Article 28(1) point 2 of the Consular Law of June 25th 2015.

<sup>32</sup> Article 18, point 8, of the Consular Law is the basis of general information policy for citizens abroad - the consul becomes acquainted with the situation in the host country, in particular with the state of its economy, science and culture, and with the host country’s legislation and agreements, while also providing relevant information to interested Polish citizens and competent authorities and institutions in Poland.

<sup>33</sup> See <http://together-razem.org/index.php/2012-11-16-14-49-14/doinformowany-senior/item/1030-program-doinformowany-senior-wystartowa%C5%82>. Accessed 15 July 2018.

<sup>34</sup> According to Article 99(1) of the Law on Marital Status Records of November 28th 2014 (consolidated text: Journal of Laws of 2016, item 2064, as amended).

The consulates are not involved in the process of obtaining birth grants or child benefits from the home country, nor they provide cash or in-kind benefits to families upon the birth of a child or to facilitate access to education to minor children. In 2017, however, Polish consuls obtained a new competence of issuing documents (student's cards) confirming the right to discounted travels available to Polish pupils residing abroad. These documents entitle the holder to purchase discounted tickets for public transportation, museums and national parks in Poland.

The Ministry of National Education (MEN) has created solutions providing Polish children with learning Polish, history, geography, Polish culture and other subjects in Polish. These solutions are consistent with the state policy directions in the field of the promotion of Polish language and culture, and maintaining and strengthening national identity of Poles living abroad. Children of Polish citizens living abroad can learn Polish or in Polish in schools and school consultative points at diplomatic missions (see the role of ORPEG described above).

There are no special policies or services by which consulates assist nationals residing abroad in accessing birth grants, child benefits or any other relevant family-related benefit granted by host countries. The consulates in all main destination countries offer additional services in the form of providing information on their websites. Examples in this regard include: "The guide to the new Berliner" in Germany<sup>35</sup> (also informing about compulsory education, family allowance for children (*Kindergeld*), family counselling and help, institutions for children and young people, etc.); the parents' guides "Polish Children in British Primary Schools" and "In Polish on the Islands" in the UK<sup>36</sup>; or the "Guide for Polish citizens who arrive to work on the territory of the Republic of Ireland" (with information about child benefits, vaccinations of children, and Irish and Polish schools in Ireland<sup>37</sup>).

For all main destination countries, the home country authorities (especially consulates) assist nationals abroad in accessing services from non-governmental partners that respond to families' needs. Examples include providing information about the activities of the Polish Catholic Mission in Germany<sup>38</sup>; co-financing the campaign "Give your child the gift of your native language" organised by the Association for the Promotion of Polish Language Abroad in the UK<sup>39</sup>; providing information about learning Polish in Polish schools belonging to NGOs in the US and Canada<sup>40</sup>;

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<sup>35</sup> [https://berlin.msz.gov.pl/pl/wspolpraca\\_dwustronna/poloniawniemczech/poradnik\\_nowego\\_berlinczyka/poradnik](https://berlin.msz.gov.pl/pl/wspolpraca_dwustronna/poloniawniemczech/poradnik_nowego_berlinczyka/poradnik). Accessed 16 August 2018.

<sup>36</sup> <https://londyn.msz.gov.pl/resource/f0294e3d-ae4-424a-9f6a-7748a91c4398:JCR>; <https://londyn.msz.gov.pl/resource/2ab59da8-f84f-4a41-ae81-df0b581e4606:JCR>. Accessed 16 August 2018.

<sup>37</sup> [https://dublin.msz.gov.pl/pl/info\\_konsularne/pobyt\\_w\\_irlandii/](https://dublin.msz.gov.pl/pl/info_konsularne/pobyt_w_irlandii/). Accessed 16 August 2018.

<sup>38</sup> [https://kolonia.msz.gov.pl/pl/wspolpraca\\_dwustronna/polska\\_misja\\_katolicka1/](https://kolonia.msz.gov.pl/pl/wspolpraca_dwustronna/polska_misja_katolicka1/). Accessed 16 August 2018.

<sup>39</sup> <http://www.podarujdziekujezyk.org/>. Accessed 16 August 2018.

<sup>40</sup> [https://waszyngton.msz.gov.pl/pl/wspolpraca\\_dwustronna/wspolpraca\\_naukowa/nauka\\_polskiego/](https://waszyngton.msz.gov.pl/pl/wspolpraca_dwustronna/wspolpraca_naukowa/nauka_polskiego/); [https://ottawa.msz.gov.pl/pl/wspolpraca\\_dwustronna/polonijne/nauka\\_polskiego/](https://ottawa.msz.gov.pl/pl/wspolpraca_dwustronna/polonijne/nauka_polskiego/). Accessed 16 August 2018.

or co-financing the project of legal and social counselling and an education support point implemented by the NGO Together-Razem in Ireland.<sup>41</sup>

### 22.3.5 *Economic Hardship*

Poland has not developed a comprehensive policy regarding support for citizens abroad in the area of guaranteed minimum resources. Support for all citizens abroad is based on one simple solution: in justified cases, the consul may grant aid to Polish citizens living in a consular district who are in need and unable to receive assistance from other sources. Payments may be granted to meet basic living needs, in particular to purchase the necessary medicines, food, clothing, school aids or to pay for the necessary care if the persons concerned have documented their difficult situation. The financial help can be recurrent, but it is generally not. There is no obligation for the national or her/his family to reimburse this payment. It is therefore a discretionary subsistence allowance whose amount depends on the analysis of the applicant's living situation.<sup>42</sup>

The Law on social assistance provides social assistance benefits aiming to enable people and families to deal with problems which they are not able to overcome with their own resources. Benefits can be granted to persons and families (permanent residents) whose income *per capita* does not exceed the income criterion. These benefits can only be granted after the beneficiary returns from abroad, but it does not mean that there is a specific policy, service or benefit designed exclusively for returnees.

There are no special policies or services, except a general information policy, by which consulates assist nationals residing abroad to access a host country's guaranteed minimum resource scheme or any other relevant host country scheme that deals with economic hardship. In some of the main destination countries, Polish embassies and consulates inform on their websites about the most popular benefits in the host country and the institutions, organisations and projects that provide assistance to migrants within a given consular district (Germany, the United Kingdom, Ireland).<sup>43</sup>

In Ireland, as a result of an agreement with the organization Together-Razem, the embassy co-organized and co-financed in 2012 a pilot project of legal and social counselling and an education support point in Cork. Since 2015, the project, still

<sup>41</sup> [https://dublin.msz.gov.pl/pl/poloniam\\_w\\_irlanii/pozostala\\_dzialalnosc/](https://dublin.msz.gov.pl/pl/poloniam_w_irlanii/pozostala_dzialalnosc/). Accessed 16 August 2018.

<sup>42</sup> The consul has full freedom in this area because the legislature did not provide detailed legal provisions regarding granting this allowance.

<sup>43</sup> [https://hamburg.msz.gov.pl/pl/informacje\\_konsularne\\_2/praca\\_i\\_zycie\\_w\\_niemczech1/](https://hamburg.msz.gov.pl/pl/informacje_konsularne_2/praca_i_zycie_w_niemczech1/), <https://manchester.msz.gov.pl/pl/poloniawb/organizacjepolonijne/gov.pl/pl/poloniawb/organizacjepolonijne/>, [https://dublin.msz.gov.pl/pl/poloniam\\_w\\_irlanii/pozostala\\_dzialalnosc/](https://dublin.msz.gov.pl/pl/poloniam_w_irlanii/pozostala_dzialalnosc/). Accessed 16 August 2018.

co-financed by the embassy in Dublin,<sup>44</sup> is addressed mainly to people in difficult life situations, and its main task is to inform and support access to social and legal information useful in solving the problems of Polish migrants. Beneficiaries are able to obtain legal advice from an Irish lawyer cooperating with the Centre or get support in social assistance.<sup>45</sup>

In the face of the growing problem of homelessness among Poles in Germany, Polish authorities will co-finance assistance for Polish homeless in Berlin starting in the summer of 2018.<sup>46</sup> In August 2018, social workers of the “Barka” Foundation for Mutual Help from Poznań in cooperation with German aid organizations should start taking care of Poles living on the streets of the German capital by talking to them, mediating in finding help or return to the country.

## 22.4 Conclusions

The main institutions that lead diaspora policy in Poland have been the MSZ and the Senate. The first has been responsible for the practical side of this policy (via the consulate network), while the Senate until 2020 distributed the main part of the budget dedicated to diaspora issues. Currently, the main strategic document related to diaspora policy is the Government Programme of Cooperation with the Polish Community Abroad for 2015–2020, which confirms the socio-cultural approach in defining the main goals of this policy. The main focus is on maintaining the national identity, teaching Polish language and supporting access to Polish culture. This approach is rooted in the common conviction that Poles living abroad are essential part of the Polish nation. Among the various groups forming the Polish diaspora, Polish minorities in the East remain the priority population, with a significant part of the diaspora funds being allocated to assisting Polish populations residing in Lithuania, Belarus, Ukraine and other post-Soviet countries. Other legal and political privileges, such as the repatriation policy and the Card of the Pole, are also addressed exclusively to them. This can be explained by ethno-historical (changing the borders after World War II) and political factors (inter-state relations with neighbouring countries).

The impact of the Polish diaspora on state policy has to be estimated as marginal. A consultative infrastructure exists in the form of consultative councils established

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<sup>44</sup>In 2017, the project was co-financed from the funds of the Embassy in Dublin in the amount of 9750 euro.

<sup>45</sup>See [https://dublin.msz.gov.pl/pl/polonia\\_w\\_irlandii/pozostala\\_dzialalnosc](https://dublin.msz.gov.pl/pl/polonia_w_irlandii/pozostala_dzialalnosc) and <http://together-razem.org/index.php/2012-11-16-14-49-14/poradnia-prawno-socjalna/item/907-poradnia-prawno-socjalna-2017-wsparcie-migrant%C3%B3w-z-polski-w-cork.php/2012-11-16-14-49-14/poradnia-prawno-socjalna/item/907-poradnia-prawno-socjalna-2017-wsparciemigrant%C3%B3w-z-polski-w-cork>. Accessed 16 August 2018.

<sup>46</sup>Information of the spokesperson of the Polish embassy in Germany (13 June 2018); <https://wiadomosci.wp.pl/polska-bedzie-placic-na-bezdomnych-w-berlinie-deklaracja-ambasady-6262347221571201a> and <http://www.barkanl.org/fundacja-barka-pomoze-polskim-bezdomnym-w-berlinie/>. Accessed 16 August 2018.



at the office of the Marshal of the Senate, as well as at embassies or consulates in particular countries. Yet, the consultation process and its results are not binding for the Polish authorities. Poles abroad are also entitled to vote in presidential and parliamentary elections in Poland, but due to the rather small number of votes from abroad and the assimilative model of voting, the actual effect of electoral participation of Polish emigrants on the overall electoral results is negligible.

Because of the mass outflow of Poles to other EU countries after accession, one could expect structural changes in the diaspora policy. Some developments took place related, among others, to the simplification of new-born children registration, issuing documents and advancement of education infrastructure abroad, but it is difficult to describe them as fundamental modifications. In the field of social protection, the engagement of home state institutions in diaspora issues took the form of reactive activities in response to particular cases, such as incidents of discrimination against Polish workers in the labour markets of destination countries. The common activity provided by various bodies competent in diaspora policy is providing information related to social issues, such as health care, social insurance or unemployment benefits. In comparison terms, the most developed area is education of Polish children abroad, which became recently the priority of the diaspora policy. These activities are consistent with the state policy priority, namely the promotion of Polish language and culture, and maintaining and strengthening national identity of Poles living abroad.

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# Chapter 23

## Diaspora Policies, Consular Services and Social Protection for Portuguese Citizens Abroad



José Carlos Marques and Pedro Góis

### 23.1 Introduction

Portugal is a traditional country of emigration with a multigenerational diaspora spread across a large number of countries.<sup>1</sup> In the last 50 years, especially after the 1974 revolution, it developed a welfare state that responds to the needs of its residents (including immigrants). Traditionally, this welfare state has been described as fragile in comparison with other welfare regimes in Europe. Nevertheless, it was built as a universal welfare system based on *jus solis* and deterritorialized *jus sanguinis* regime. The study of the extension of social protection to Portuguese citizens living abroad had not yet received sufficient attention, albeit recurrent news on measures and strategies that the state put in practice to assist Portuguese emigrants in need.

The protection of its citizens is one of the functions of the nation-state inscribed in most national Constitutions. The extension of this ‘right to protection’ beyond the frontiers of the country has been a constant concern of the Portuguese legislator, at least since the massive emigration flow of Portuguese citizens to Brazil at the end of the nineteenth century and the beginning of the twentieth century. During this period, the state was mainly worried about the regulatory functions necessary to guarantee safe (or at least human) travelling and working conditions, and with the expatriation of its citizens in case of need.

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<sup>1</sup> Recent data from the Ministry of Foreign Affairs show the presence of Portuguese migrants in 178 of the 193 countries belonging to the United Nations.

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With the institutionalization of the welfare state, late in the twentieth century,<sup>2</sup> the protection of citizens expanded to include new spaces of state intervention with the objective to support the risks of unemployment, work injury, sickness, maternity, old age, disability, survivors, and family allowances and access to education or housing of its members (mainly its citizens). The classical concept of the welfare state rested on the principle to ensure each individual protection due to his/her membership in the national society. Since members of a society make their livelihood in a specific nation-state, belonging to a national society means belonging to a particular national territory. The conceivable extension of this individual protection to citizens living in another country allow us to analyse Portugal's engagement policies and measures that simultaneously contribute to nurture the sense of communities abroad and emigrants' attachment with the country of origin (Gamlen 2008). As with other policies aiming emigrant engagement (see Marques and Góis 2014), the analysis of the social protection of Portuguese citizens abroad reveals that Portugal's initiatives to maintain links with citizens abroad are recurrently fragmented and tenuous. Taken together, they form a constellation of institutional and legislative measures and programs that evolve through time accompanying the establishment of Portuguese communities abroad. Cultural engagement policies and the extension of political rights to citizens abroad have been the most disputed policies given their greater visibility and likelihood to render political gains (either for governing parties, or for the opposition). Albeit protecting its citizens abroad has been a long-standing concern in the political debates and the legislation on emigration, the spread of social protection policies to emigrants is a more recent fact and therefore lacks a systematic analysis. To contribute to this study, this chapter focuses on diaspora and consular policies developed by Portugal in response to the social protection needs of its citizens abroad. The first part of the chapter presents the general institutional framework by which Portugal assists nationals abroad and the main engagement policies with the diaspora. The second part presents the main features and explains the development of the country's diaspora policies across five specific welfare areas: unemployment, health care, pensions, family benefits, guaranteed minimum resources.

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<sup>2</sup>Miriam Halpern Pereira (2005) defends that the Portuguese welfare state started as early as the first quarter of the twentieth century.

## 23.2 Diaspora Policy Infrastructure and Key Policies

### 23.2.1 *The Portuguese Diaspora and Its Relations with the Homeland*

Portugal had traditionally been a country of emigration taking part, like other European countries, in the two great migratory waves of the nineteenth and twentieth century. The first one (from the nineteenth century to the 1960s) went mainly to Brazil and the United States that accounted, respectively, for 68% and 18% of those that left Portugal. The second migratory wave lasted from the 1960s until the early 1970s and was directed towards industrialized countries of Northern and Central Europe, mainly France and Germany which respectively accounted for 63,9% and 13,3% of Portuguese emigrants between 1960 and 1974 (Baganha and Marques 2001). The economic crisis of 1973/74 put an end to this intra-European migration movement. After this date, Portuguese emigration was marked by periods of contraction (1970s to mid-1980s), expansion (mid-1980s onwards), and then an intensification of the expansion (from the end of 2000 onwards) (Marques and Góis 2013a). In recent years, Portuguese emigration has both risen substantially and diversified its range of destinations. Currently, there are movements towards traditional destination countries alongside migrations to new territories, the outflow thus becoming geographically more diversified and dispersed.

Because of this continuous outflow, estimates show that the number of Portuguese-born and their descendants living in another country is currently between 2 and 4.8 million.<sup>3</sup> Data on the geographical distribution of this population are not available in the official statistics mainly due to lack of information on the country of birth of the ancestors of emigrants' descendants born in the country of residence. Older migratory flows are normally less visible in current statistics, although descendants of Portuguese nationals born abroad with, at least, one Portuguese ascendant in the second degree (grandparent) of the direct line who has not lost this citizenship are entitled to Portuguese citizenship. Existent data are generally based either on citizenship, or on peoples' place of birth. Based on this last criterion, the main countries of residents are France (621,777 Portuguese-born in 2015), Switzerland (220,904 in 2017), Brazil (169,069 in 2017), Canada (161,055 in 2017), United States of America (148,208 in 2016), United Kingdom (139,000 in 2017), and Germany (123,155 in 2017).

Throughout its history, Portugal has sought to maintain contact with its citizens abroad. Interactions with emigrants have been mainly limited to the cultural and political dimensions and trace a preponderantly unidirectional relationship (from

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<sup>3</sup>Data on emigrants and their descendants inscribed at a Portuguese Consular post point to 5,740,787 Portuguese abroad. These data should be interpreted cautiously since they include citizens that could already have returned to Portugal and exclude Portuguese descendants that are automatically entitled to Portuguese citizenship if they fill the claim (Portal das Comunidades Portuguesas 2019).

the state to citizens abroad). Yet, the development of Portugal's engagement policies needs also to consider the reception context that influences the development of specific opportunities to support origin engagement (for example, the development of Portuguese language and culture courses is determined by the educational policies of the destination state). We undertake this task partially by looking at specific policies developed in the major countries of destination of Portuguese emigrants.

### 23.2.2 *Diaspora Infrastructure*

Despite this long and lasting emigration flow and the presence of sizeable communities of Portuguese citizens and their descendants in multiple countries, there is no ministry in Portugal that acknowledges in its official name that one of its core missions is to deal with diaspora and/or emigration questions (there is only a general Ministry of Foreign Affairs<sup>4</sup> that includes a Secretary of State for communities abroad). The General Directorate of Consular Affairs and Portuguese Communities (DGACCP) is the responsible entity for questions regarding Portuguese citizens abroad. Its functions include the coordination and implementation of the policy to support emigration and the Portuguese communities abroad. This General Directorate is part of the Ministry of Foreign Affairs.

Consular services focus mainly on the defence of the rights and interests of the Portuguese state and of its citizens. Its action is comprehensive in terms of matters (electoral census, identification cards and passports, travel documents, certificates and solicitations, legalization of documents, issues relating to civil and criminal registration, etc.). In terms of support, they identify three general areas: cultural and associative movement; and social and legal areas (*Portal das Comunidades – Serviços Consulares*, 2016).

At regional level, the autonomous Region of Azores have a Regional Directorate of the Communities that has, among its functions, dialogue promotion between immigrant and emigrant communities and their representatives and encourages civic and political participation in the societies in which they are inserted.<sup>5</sup>

#### **The Portuguese Consular Network**

The Portuguese consular network has representation on the five continents. It includes different types of consular structures:

- General consulate, with a fixed address;
- Consulate, with a fixed address;
- Vice-Consulate, with a fixed address and punctual permanencies in some cities (on specific dates);
- Consular section, with a fixed address and specific working hours;

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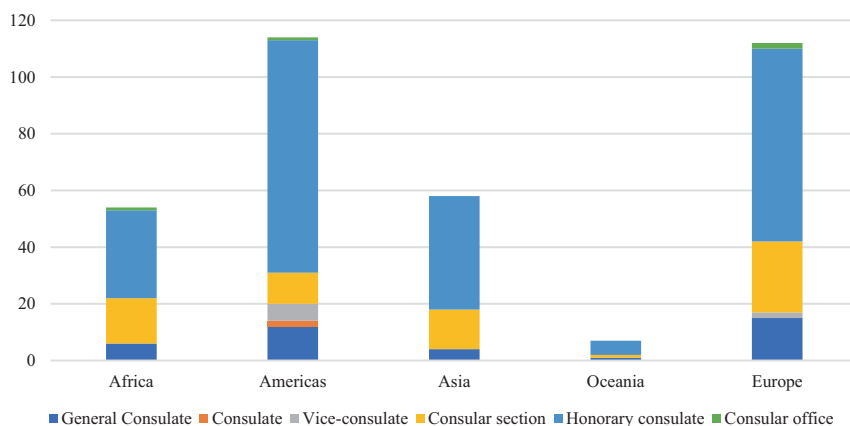
<sup>4</sup>Between 2002 and 2005 a Ministry of Foreign Affairs and Portuguese Communities existed.

<sup>5</sup>Source: *Governo dos Açores* (2018).

- Honorary consulate, which is equal to the consulate in the functions of defending the rights and interests of the Portuguese state and its nationals, but sees its competences limited to the practice of consular acts such as electoral census, civil registration and notary acts and issuing travel documents (and these functioned only in particular conditions and duly substantiated);
- Consular office, with a fixed address and specific working hours.

To ensure consular support to citizens within the area of jurisdiction of the consular post, the legislation allows the functioning of mobile consulates that offer consular services outside the city where the consulate is based.<sup>6</sup> These mobile consulates assure the realisation of all consular services such as issuing of Citizen Card and passport, electoral census and civil registry, among others. This is possible thanks to a technologically advanced computer that allows an accredited employee to capture citizens' image, signature and fingerprint on time, as if it were on the premises of the consulate. In 2017, 618 consular permanencies were carried out in which 34,814 citizens were attended.<sup>7</sup>

In total, in 2018, the Portuguese consular network was composed of 345 posts.<sup>8</sup> Its presence in different continents is variable and the type of consular structure is geographically diverse (Fig. 23.1). Most of the consular structures are in the Americas and in Europe that together have around 60% of the total consular institutions that compose the Portuguese consular network. The largest number of consular institutions are in countries that have been traditional countries of destination



**Fig. 23.1** Portuguese Consular network by continent and type, 2018. (Source: Authors elaboration based on data from the Portuguese Communities Portal *Portal das Comunidades Portuguesas* 2018c)

<sup>6</sup>For a list of mobile consulates, see *Portal das Comunidades* (2018b).

<sup>7</sup>Source: *Portal das Comunidades* (2019).

<sup>8</sup>Includes 38 general consulates, two consulates, eight vice-consulates, 68 consular sections, four consular offices, and 226 honorary consulates.

of Portuguese emigrants, like Brazil (36 consular institutions), the USA (19), and France (17).

Regarding other representative or consultative institutions, it is worth mentioning that in 1980, the Government created the Council of Portuguese Communities (*Conselho das Comunidades Portuguesas*)<sup>9</sup> as a form to maintain an institutional dialogue with citizens abroad (Aguiar 2009). The role of the Council is mainly a consultative one, advising the Government in matters related to emigration and Portuguese citizens abroad (Marques and Góis 2013b). Council's activities were interrupted between 1988 and 1996. Since this date, the Council has broadened its scope of action being responsible for issuing opinions on drafts of law and other projects of legislative and administrative acts, as well as on international agreements or regulations relating to the Portuguese citizens abroad. Beside this consultative function, the Council also provides information and issues opinions on all matters relevant for Portuguese residents abroad and direct them to the member of the Government responsible for the areas of emigration and of the Portuguese communities and formulate proposals and recommendations on the policy for the Portuguese communities.

The Council is composed of a maximum of 80 members elected for a four-year mandate by Portuguese residing abroad which are electors of the Portuguese Legislative Assembly. Members are elected in electoral districts (*círculos eleitorais*) in countries with a significant population of Portuguese citizens.<sup>10</sup>

The Council's work is organized in plenary session, a permanent council, thematic committees, regional councils, sections and subsections. It meets in plenary once per mandate and more frequently only if justified by particular reasons (Portal das Comunidades Portuguesas 2018a). Its main function is of an advisory nature. It has direct involvement in activities related to social protection. One of its Thematic Committees is on social and economic questions and migrations flows. The mission of this Committee is to draw up reports and studies on specific matters of its intervention areas (Article 3 of the rules of procedure of the Committee) (Portal das Comunidades Portuguesas 2018e). These reports and studies are not however publicly available and thus it is not possible to analyse the positions of the Council in issues related to the access to social protection of Portuguese citizens abroad.

Lastly, parties that are currently present in the Parliament do not have a special department for citizens abroad in their organizational infrastructure. However, in the elections for the Legislative Assembly, the two main political parties (Socialist and Social Democrats) regularly elect the four deputies that are elected in the two extra-territorial electoral districts (one district for Portuguese citizens residing in Europe and the other one for Portuguese residing outside of Europe).

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<sup>9</sup>Decree-Law n° 373/80 of September 12.

<sup>10</sup>South Africa, Germany, Andorra, Angola, Argentina, Australia, Belgium, Brazil, Cape Verde, Canada, China, Spain, United States, France, United Kingdom, Guinea Bissau, India, Luxembourg, Mozambique, Namibia, The Netherlands, Curaçao, São Tomé and Príncipe, Sweden, Switzerland, East Timor, Uruguay, Venezuela.



### 23.2.3 *Key Engagement Policies*

The Strategic Plan for Migrations (PEM) for the period 2015–2020 (Governo de Portugal 2015) includes a set of measures directed towards immigrants in Portugal and Portuguese emigrants. The policies directed towards citizens abroad are aiming primarily at encouraging, monitoring and supporting their return to Portugal. The Plan also foresees a set of measures intended to strengthen the links between citizens abroad and their homeland. The following measures coordinated by the Ministry of Foreign Affairs are proposed in the PEM:

- Implementation of measures to support citizens abroad (through the expansion of the instruments of the consular network, like consular permanencies);
- Stimulating and consolidating the ties with Portugal, promoting and disseminating the Portuguese language and culture as well as associations for the benefit of the Portuguese communities abroad (through the support to initiatives and projects of the associative movement);
- Encouraging the integration and civic and political participation of the emigrant in societies and host communities;
- Stimulating economic and entrepreneurial relations between citizens abroad and Portugal and attracting emigrant entrepreneurs to Portugal (Governo de Portugal 2015).

The analysis of the historical development of these measures shows that they have followed, albeit not always immediately, the evolution of the emigration flows, the constitution of sizeable and stable communities of Portuguese citizens abroad, and the economic and political interests of Portugal. This is clear in the evolution of the consular structure or in the measures intended to support the teaching of Portuguese language and culture to emigrants' descendants.

One central policy of engagement of Portugal with citizens concerns voting rights through which the state has sought to incorporate politically its citizens living abroad. In the case of the elections for the Legislative Assembly, the right of participation of Portuguese emigrants is guaranteed, since 1976. Irrespective of the years spent abroad, Portuguese enrolled in the electoral census abroad can vote by correspondence or in person at a consulate, embassy, delegations of Portuguese ministries or institutions previously defined by the Minister of the Interior (the process is the same for the other elections). Emigrant voters are grouped in two electoral districts: the electoral district 'Europe' and the electoral district 'Rest of the World' (Santana-Pereira and Horta 2017). Both circles elect two members (out of a total of 230) and it is therefore frequent, especially during electoral campaigns, that the candidates for the emigration circles intensify their contacts with the emigrants (Marques and Góis 2013b; Costa 2000). It is worth mentioning that, once elected, these four members of the parliament are not expected to defend the interest of electoral district in which they were elected, but the national interest (like all other members of the parliament) (Rodrigues et al. 2013).

Since the fourth constitutional revision in 1997, emigrants have been allowed to vote in the presidential elections. Although article 121 of the Constitution requires an effective connection of the emigrant to the national community as a condition to vote from abroad, the legal framework created for the election of the President of the Republic did not take this condition into consideration (Marques and Góis 2013b; Costa 2000), allowing thus Portuguese citizens abroad to vote in presidential elections.

The involvement of migrants in national political issues is also possible via participation in certain referenda (which affect them directly<sup>11</sup>), and European Parliament elections.<sup>12</sup>

Data on the political participation of the Portuguese abroad show that the extension of electoral rights has not been accompanied by an expansion of the effective involvement of Portuguese emigrants in the different electoral processes.<sup>13</sup> More than expressing a lack of interest or detachment from national political issues of Portuguese citizens abroad, the low levels of registration in the electoral census and even lower turnout levels reflect the inadequacy of the existent mechanisms to promote emigrants' political participation (Marques and Góis 2014, 2013b).

The creation of legal conditions for emigrants' political participation has been accompanied by a resistance to adopt methods that could allow voting from abroad. The imposition of a vote in person for certain elections (presidential and European elections) and the mismatch between the location of voting places (usually in embassies or consulates) and the regions where migrants live, constitute the main factors that constrain emigrants' turnout (Marques and Góis 2014).

The automatic census of emigrants abroad (that started in 2018) will allow an increase in the number of citizens enrolled in the electoral census (to more than one million Portuguese citizens abroad, according to governmental sources). Since this measure is not followed by a change in the voting methods, it is expected that it will lead to a rise in the abstention rate.<sup>14</sup>

### **Education and Culture**

To produce and intensify the relation between migrants and the country of origin, the Portuguese state developed a program of teaching of Portuguese language and culture directed to the children of migrants (known nowadays as 'Portuguese Inheritance Language'). This program was created in 1973 and is executed in institutional contexts that are strongly influenced by the policies of the host countries concerning the integration of the teaching of immigrants' mother tongue in their school system (Aguar 2009). State support for these courses was, until 1 February

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<sup>11</sup> Art.º 37, n.º 2 of Organic Law n.º 4/2005, 8 of September.

<sup>12</sup> Law n.º 14/87, 29 April.

<sup>13</sup> In the 2015 election for the Legislative Assembly, 242,849 Portuguese emigrants were enrolled in the electoral census and only 11,8% cast their vote (Comissão Nacional de Eleições 2015).

<sup>14</sup> For the 2019 election for the Legislative Assembly, 1,466,754 Portuguese citizens were enrolled to vote and only 10,8% cast their vote (Secretaria Geral do Ministério da Administração Interna 2020)

2010, managed by the Ministry of Education, and from this date onward, it is coordinated by the Camões Institute. Last available data refer to 2017, showing that Portuguese language and culture courses were taught to 68,758 students in 17 countries,<sup>15</sup> at the preschool, basic and secondary education level (Gabinete do Secretário de Estado das Comunidades Portuguesas 2018). These courses did not lead to any degree, they only certify the knowledge of Portuguese language if the student passes the Portuguese language exam.

Camões Institute is a public institute with administrative and financial autonomy and its own assets. Its missions are, among others, to: (a) propose and implement the Portuguese cooperation policy (mainly with Portuguese-speaking countries); (b) propose and implement education and dissemination policies relating to the Portuguese language and culture internationally; (c) ensure the management of the Portuguese educational network abroad in primary, secondary and higher education; (d) promote the internationalisation of Portuguese culture (Instituto Camões 2018).

Camões Institute is in charge of implementing Ministry of Foreign Affairs' missions in the area of culture. In this area, it ensures the promotion and diffusion of Portuguese culture abroad by designing, producing, proposing and promoting activities and projects to increase international awareness of all the different types of artistic expression. These activities are executed directly by the Institute and their regional sections abroad, frequently in close association with Portuguese consulates or embassies. The total budget of the Camões Institute was, in 2018, 68 million euros, from which 26,6 million were allocated to the teaching of Portuguese language and culture program, 27,9 million to international cooperation, and 6,2 million to cultural initiatives developed under the programme 'Portuguese presence abroad'.

Another measure at the educational level directed towards citizens abroad is the existence of a specific number of vacancies to access higher education for Portuguese migrant candidates and family members who are residing with them. Every year, 7% of the vacancies set for the first stage of the national access competition is reserved for candidates that are Portuguese citizens abroad and their family members who reside with them.<sup>16</sup>

Another area of engagement is the support of Portuguese associations abroad. Managed by the Ministry of Foreign Affairs, this support is focused on the actions developed by the associative movement of the Portuguese communities. Funding is provided for actions and projects that contribute to the promotion of Portuguese

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<sup>15</sup>Germany, Andorra, Belgium, Spain, France, Luxembourg, the Netherlands, the United Kingdom, Switzerland, South Africa, Namibia, Swaziland, Zimbabwe, Canada, the United States of America, Venezuela, Australia.

<sup>16</sup>In the 2019 national access competition, of the 3,500 available vacancies for emigrant descendants, 416 were filled, mainly with students from France, Brazil, Angola, Venezuela, Luxembourg, Switzerland, Macau, Mozambique and the United States of America (data retrieved from: <https://www.publico.pt/2019/09/29/sociedade/noticia/lusodescendentes-ensino-superior-portugues-aumentaram-150-quatro-anos-1888260>)

language and culture, to social, political, cultural and economic inclusion in the host countries, to training and formation of associative leaders and the promotion of gender and citizenship equality in communities abroad (Portal das Comunidades Portuguesas 2017b). There is an annual call for proposals for actions to be developed by the associations abroad or by associations in Portugal that develop actions abroad. The support consists in a non-refundable financing of the activities proposed and are granted through the financing of actions and projects, up to a maximum of 80% or 50% of the value deemed eligible for the budget presented, depending on whether they are entities based abroad or in Portugal.<sup>17</sup> Associations wishing to apply have to be accredited at the General-Directorate for Consular Affairs and Portuguese Communities that runs this policy.

### 23.3 Diaspora Policies and Social Protection in Portugal

In Portugal, the main risks and needs covered by the national social security system are unemployment, health care, retirement pensions (old age), family, minimum social income – universal basic income, and, in supplementary form, access to education or housing. These benefits are subject to the national legislation on welfare and are directed towards individuals (national or foreigners) living in Portugal. Portuguese citizens abroad can usually only benefit from these services and policies after returning to Portugal. The exception are pensioners and the large population of Portuguese posted workers conducting short-term missions in another European Union (EU) Member State. Posting of workers — that is often confused with migration—is a particular source of concern to the Portuguese authorities. They are however, technically speaking, not citizens residing abroad, as they continue to pay their compulsory social security contributions in Portugal and thus continue to be covered by the Portuguese social security system (Law n.º 64/93, 5 of March).

Because social protection is traditionally linked to residence, the engagement of the Ministry of Foreign Affairs, through its consular network, in the area of social protection can be considered as weak. The activities of the consular network are more commonly related with registration acts, issuing of travel documents, and electoral census acts. Yet, consulates are also involved in the monitoring of cases of labour exploitation, Portuguese detainees abroad, deportations or expulsions of Portuguese citizens, as well as the provision of social support to those deprived residing abroad (Sousa 2017). In a very reduced number of Portuguese embassies abroad, there is the position of the social *attaché* to deal with those issues but, normally, this will be part of a junior diplomat's mission within the embassy personnel. Overall, there is no national strategy directed towards the specific social protection needs of nationals abroad, as Portuguese authorities tend to limit their responses to specific situations, mainly in the case of deprivation and when repatriation is needed.

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<sup>17</sup>Law n.º 124/2017, 27 June.

Similarly, there is no real strategy to inform nationals abroad about social protection rights and obligations. The information available is mainly aimed at citizens who intend to emigrate and aims at raising awareness on precautions to take before going abroad or those aiming to return and the administrative and fiscal issues they need to prevent.

Information on repatriation policies and procedures (conditions, obligations) are scarce. In accordance with the Decree-Law 162/2006 (8 August 2006), repatriation of Portuguese citizens can occur when citizens lack the necessary means to support return costs; due to medical reasons that advise, in situations of danger of life, the immediate return, due to impossibility of local treatment; and in cases of expulsion. Each situation is evaluated by the consular section. Except in cases of expulsion, repatriation only takes place by the express will of the concerned citizen or her/his representative. Repatriated Portuguese who have the means to reimburse the state the amounts spent in the repatriation process shall, in a written declaration, take the reimbursement commitment. Numbers of repatriation have been declining in the last 2 years, from 108 in 2016 to 75 in 2017.

In recent years, the main reasons for repatriation has been accidents, weather conditions (Irma hurricane in 2017, for example), irregular presence in host country (e.g., in Canada, or the USA), political and economic instability in host countries (e.g., Venezuela). Regarding irregular presence, the number of repatriations from Canada and the USA are not very high, six from Canada (between 2016 and 2017), and 44 from the USA for the same period.

There are two social protection measures explicitly developed for Portuguese citizens abroad and managed by Portuguese consulates: the ‘Social support for the deprived elderly of the Portuguese communities’ (ASIC-CP) aimed at deprived Portuguese seniors of at least 65 years old, and the ‘Social support for the deprived migrants of the Portuguese communities’ (ASEC-CP) (see below).

Beyond social security cooperation in the EU framework, one area where Portugal has been very active in terms of access to social protection of individuals in situation of mobility is the signature of bilateral social security agreements. These agreements guarantee that returning emigrants are covered by the national social security system in case of unemployment, disease, old age, family, and, in a supplementary form, have access to education or housing of its members.

Currently, Portugal has 23 bilateral agreements on social security matters with different countries or regions.<sup>18</sup> Most of these agreements are not related to the emigration of Portuguese citizens, but rather to the presence of immigrants from the signatory countries in Portugal. This orientation toward immigrants is expressed in the Social Security Law that explicitly state in its article 25 that “the State promotes the establishment of coordination instruments on social security with the aim of

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<sup>18</sup>Currently bilateral agreements with the following countries are in place: Andorra, Angola, Argentina, Australia, Cabo Verde, Canada, Chile, Philippines, the UK, Guinea-Bissau, India, Morocco, Mozambique, Moldova, Romania, São Tomé and Príncipe, Tunisia, Ukraine, Uruguay, Venezuela. Besides these, Portugal signed European wide and Ibero-American wide multilateral agreements.

ensuring equal treatment for the beneficiaries concerned who are engaged in professional activity or residing in their territory relatively to rights and obligations (Law n.º 4/2007, 16 January).

Due to reciprocity principle, the agreements also apply to Portuguese emigrants living in these countries. Among the countries with which agreements were signed, it is possible to note the presence of countries with a sizeable Portuguese community (Andorra, Angola, Canada, and the UK) and countries where the presence of Portuguese citizens is rather small (Moldova or Ukraine).

The social policies field covered by the different agreements are displayed in Table 23.1. Social policy fields of old age, health care and family policy are the main subjects of such agreements. The matters included in these conventions are governed by “the basic principles that guide the international coordination of Social security legislation (...), in a framework of global reciprocity and of the specific bilateral relationship between them [the States]” (Silva, 2005, cit in Peixoto et al. 2011: 72).

In 2017, Portugal signed the Ibero-American Multilateral Agreement on Social Security and is currently one of the 11 countries where the agreement is in force. This agreement “deals with contributory financial benefits for disability, old-age, survivors, and those resulting from accidents at work and occupational illnesses” (Riaño 2018), and foresees the possibility to extend it to other areas.

If the emigrant resides in a country that has not signed any international social security agreement with Portugal and has never contributed for the Portuguese social security, there are several situations in which he/she will continue to benefit from the Portuguese regime or the scheme for which he/she has contributed in the country where he/she worked. If the emigrant carries out a professional activity in a foreign country and is not covered by any international social security system to which Portugal is linked, he/she may require Voluntary Social Insurance. This is an optional contributory scheme aiming to guarantee the right to social security for persons over 18 years of age and who are eligible for work that are not compulsorily included in any social protection schemes. Social protection covered by Voluntary Social Insurance varies depending on the activity exercised, including, in most cases, disability, old age and death grants (Alto Comissariado para as Migrações 2018).

**Table 23.1** Social policy fields covered by bilateral social security agreements

<i>Social policy field</i>	<i>N</i>
Invalidity benefits	22
Old age benefit	23
Death grant	17
Survivor's benefits	20
Work injuries	16
Maternity insurance	13

Source: Bilateral agreements with several countries (*Segurança Social* 2018a, b)

In the next sub-sections, we look more precisely at five social protection dimensions in order to identify the engagement of Portuguese authorities with their citizens abroad.

### ***23.3.1 Unemployment***

As provided by the EU legislation, an unemployed individual who receives unemployment benefits can leave the country to search for work in another EU Member State and continue to temporarily receive the unemployment benefit. Before leaving, he/she has to inform the employment center and request from the social security services the U2 portable document that will allow him/her to obtain the authorisation to transfer unemployment benefits to another country (Instituto da Segurança Social 2019). Beyond this, there is no policy to assist Portuguese citizens abroad in accessing unemployment benefits (either in home or host country). To be eligible for the unemployment benefit, residence in Portugal is necessary.

There is also no separate unemployment or training scheme for nationals abroad. If emigrants are not covered by a social security scheme abroad, they can pay (while abroad) the Voluntarily Social Security, but this does not allow them generally to access unemployment benefits. The contribution to the Voluntarily Social Security only allows Portuguese citizens abroad to access benefits in cases of disability, old age and death grants. Also, unlike other states, the Portuguese Government does not provide any training for citizens wanting to emigrate. General information is available for those that want to work or live abroad (Portal das Comunidades Portuguesas 2018f).

Looking at consular services, their main mission in the area of employment concerns the monitoring of labour exploitation cases and situations of contract breach. According to data from the yearly emigration report, between 2012 and 2017, 168 cases of labour exploitation/contract breach were registered. Overdue payments, low wages, lack of company support, and breach of contractual obligations are the main situations reported by exploited workers. Situations of employment exploitation are forwarded to the competent consular posts or sections to analyse and provide the necessary support, and to the IEFEP (Portuguese Employment Institute) or ACT (Authority for Work Conditions) to carry out the proper inspection and control and to contact their foreign counterparts.

Overall, since the mass migration of Portuguese citizens in the nineteenth century, guaranteeing safe working conditions has been one concern of the state. The size of the outflows and the occupational sectors in which a substantial part of emigrants work (e.g. construction, agriculture, hotel industry) make the pursuing of this state's concern difficult. It has been based mainly on emigrants' complaints and on information campaigns directed towards those who wish to emigrate.

### 23.3.2 *Health Care*

Beyond the EU framework, there is no policy to assist Portuguese citizens abroad in accessing health care (either in home or host country). The National Health Service does not provide information for citizens living abroad, it can be used by residents in Portugal (nationals or foreigners). Consulates' functions regarding health care only involves the facilitation of contact with host country hospital units in case of accident or illness (Portal das Comunidades Portuguesas 2017a) and repatriation of citizens when host country's health services are not available.

In cases of accidents, consulates shall provide assistance equivalent to the support received in Portugal, seeking to ensure the necessary medical assistance and taking all other measures appropriate to the situation.<sup>19</sup> Citizens who received help from the consulates and have the means to reimburse the state have to sign a written declaration stating their commitment of reimbursement. The law does not give any further indications on the conditions in which this assistance is made and on the situations that allow a citizen to seek help from the consulates.

The remaining articles that the law devote to the provision of extraterritorial assistance of Portuguese citizens regard accounting matters like that the reimbursement shall be made to the exchange rate prevailing at the time of the assistance, or the obligation of the holders of the consular post to refer monthly to the Ministry of Foreign Affairs the expenses incurred with the aid provided.

### 23.3.3 *Pensions*

Bilateral social security conventions frequently concern pension agreements (see Table 23.1) and often postulate measures for the cumulation of contributions periods in the signing states. In addition, multilateral agreements, like the Ibero-American agreement mentioned before, foresee similar provisions for pensions.

Portuguese pensions are exportable, which entails that Portuguese citizens living abroad can claim Portuguese state pension if they have worked and paid enough contributions for the Portuguese social security. They should have paid for social security or other social protection system for 15 years (continuous or not). If they are beneficiaries of the Voluntary Social Insurance, a period of 144 months of contributions is necessary. If they do not have the necessary discounts (warranty period), they may be entitled to the social old-age pension.

For emigrants that receive their pensions abroad (as for the general population), life certificate is only needed when requested by the Portuguese social security system. Portuguese consulates abroad can issue such certificates.

Next to these limited interventions in the area of pension, it is important to note the existence of a specific scheme for old-age Portuguese citizens abroad in

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<sup>19</sup>Law n° 71/2009, from March 31.



situation of deprivation that has been set up in 2000: the ‘Social support for the deprived elderly of the Portuguese communities’ (ASIC-CP). This measure is aimed at Portuguese nationals of at least 65 years old, with legal residency abroad, in a situation of proven economic necessity, and without family members obliged to provide food or if these are not able to provide them with food.<sup>20</sup> The primary objective of this measure is to provide minimum subsistence condition, including accommodation, food, healthcare and hygiene. It materialises as a personal allowance, paid monthly through cheques to residents in a foreign country, except for residents in Brazil who receive the money quarterly by bank transfer. The total budget for this form of support decreased from 1,7 million euro in 2015 to 1,5 million in 2016, accompanying the decline in the number of beneficiaries (from 863 to 774). The value that is given to each recipient varies depending on the value of the host country’s social pension (or equivalent) and cannot be more than the minimum pension of the contributory regime in force in Portugal at the beginning of the 2nd semester of each year<sup>21</sup> (in 2018, between 269€ and 389€). Between 2013 and 2017, the State department responsible for managing the requests (General Direction of Consular Affairs and Portuguese Communities) received 108 applications. At the end of 2017, the state supported 774 beneficiaries in 14 countries (Gabinete do Secretário de Estado das Comunidades Portuguesas 2014, 2015, 2016, 2017, 2018) (Table 23.2).

### 23.3.4 Family-Related Benefits

Beyond what is provided by the EU framework, Portuguese citizens living abroad cannot access child benefits from Portugal. Portugal’s intervention in this area is limited mostly to the delivery of birth certificates at the consulate in case the

**Table 23.2** Country of residence of the beneficiaries of the social support for the deprived elderly of the Portuguese communities (main countries), 2013–2017

Country	Number of beneficiaries				
	2013	2014	2015	2016	2017
Brazil	637	612	604	583	545
Venezuela	85	84	82	76	71
Mozambique	71	67	56	55	50
South Africa	64	64	57	58	54
Zimbabwe	28	26	23	22	21
Angola	21	21	20	17	17
Other	41	36	21	18	16
Total	947	910	863	829	774

Source: *Gabinete do Secretário de Estado das Comunidades Portuguesas* (2014, 2015, 2016, 2017, 2018)

<sup>20</sup> *Despacho conjunto* n.º 17/2000, from 7th January.

<sup>21</sup> *Decreto Regulamentar* n.º 33/2002, from 23rd April.

children were born abroad and were registered at a national consular post. Also, home country birth certificates can be requested at a consular post (Portal das Comunidades Portuguesas 2018d).

The registration at the Portuguese consulate of a foreign-born child of a Portuguese parent make them Portuguese citizens. When this registration is not made, voluntary acquisition of Portuguese citizenship by descendants born abroad is also possible by declaring that they want to be Portuguese. In this case, foreign-born descendants of a Portuguese citizen need a birth certificate to access Portuguese citizenship. This form of acquiring the Portuguese citizenship is also possible for grandchildren of a Portuguese citizen. The recognition as Portuguese citizens of foreign-born descendants allow them to access the general constitutional rights and measures of ‘positive discrimination’ foreseen in the Portuguese Constitution and in specific laws. One of these measures refers to access to higher education, being legally consecrated a special contingent (equivalent to 7% of the vacancies set for the first phase of application, see above), intended to ensure admission to Portuguese emigrant candidates and relatives who with them reside.<sup>22</sup>

### 23.3.5 *Economic Hardship*

There is no policy to assist Portuguese citizens abroad in accessing minimum resources either in cash or in-kind (either in home or host country). In case of economic hardship, consulates can promote the repatriation to Portugal in exceptional circumstances and proven economic failure. Repatriation is only possible when other means to overcome the economic hardship of the emigrant are not possible and after signing an agreement for reimbursement of the amount spent. When citizens have no financial means to pay their return trip, the consular missions will make the necessary arrangements.

Next to this apparently restrictive approach to respond to economic hardship of Portuguese citizens residing abroad, a specific scheme was created in 2002 to respond to this situation: the ‘Social support for the deprived migrants of the Portuguese communities’ (ASEC-CP).<sup>23</sup> The recipients of this instrument are emigrants and their families who are in a situation of proven lack of means of survival or that show great vulnerability not surmountable by the social protection and health mechanisms that exist in the countries of residence.

The institutionalization of measures aimed to help Portuguese citizens deprived of means of subsistence means that the state recognizes that migration is not always a success story. It arises from the frequent reports about the existence of Portuguese in a situation of economic deprivation and the pressure exerted by associations of emigrants, members of the Council of Portuguese Communities, and members of

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<sup>22</sup>Ordinance n.º 211/2018, from 17th July.

<sup>23</sup>Regulatory Decree n.º 33/2002, from 23rd April.

political parties with responsibilities in the area of emigration. As outlined in the preamble of the Decree-Law that creates this support scheme, “among the first- and second-generation Portuguese in the host countries, not all of them live in a favourable economic situation. There are situations, especially in Latin America, in which Portuguese - who have been looking for the sustenance they have not found in their country - are experiencing dramatic situations today, both socially and financially, that their home country has an obligation to help to resolve or, at the least, assist.” (Decree-Law 33/2002, 23rd April).

This scheme particularly targets victims of crimes against physical integrity, of natural and public disasters, of extraordinary events, of serious illness requiring urgent treatment, surgical intervention or other; disabled or victims of a disabling accident in a situation of dependence that needs technical help to improve their living conditions. It is a punctual and extraordinary individual or family allowance whose amount is variable, taking into account the socio-economic situation of the person, and of its household. Between 2013 and 2016, 39 requests were made for this allowance, mainly from Brazil and South Africa (Gabinete do Secretário de Estado das Comunidades Portuguesas 2014, 2015, 2016, 2017).

## 23.4 Conclusions

Albeit being a country of emigration for the most part of its history, Portugal has not developed sound policies of social protection directly intended for its citizens living abroad. Existent policies are mainly directed towards the extra-territorial extension of rights (voting rights), or to the maintenance of a cultural link between citizens abroad and the country of origin (Portuguese language and culture for citizens abroad). The attention given to measures intended to deepen the connection of emigrants to the Portuguese state through, for example, the creation of conditions for the maintenance of Portuguese language and culture, is justified by the historical relevance of emigration in Portugal and by the attempt to construct an image of the state that is greater than the limits of its territory. Regarding the state apparatus created by the Portuguese Government to support emigrants (e.g. through its consular representations), it could be argued that these policies, state services abroad, and symbolic politics are also intended to “ensure that migrants remain enduring long distance membership” (Levitt and de la Dehesa 2003).

The existing measures of social protection either derive from the ones applicable to the general Portuguese population and thus depend on the return of citizens abroad or address extreme causes of deprivation that result from the deterioration of living conditions, or the development of unstable economic and political conditions. The late development of the welfare state in the country and its fragile nature when compared with other European welfare systems help to explain the incomplete extension of social protection to citizens abroad. Its expansion beyond the Portuguese territory gained a greater prominence since the 1980s. As shown in the previous sections, this late institutionalization of the welfare state and its “territorial index”

(Bommes 2012) accounted for its slow and incomplete extension to Portuguese citizens living in another country. The involvement of the representations of the Portuguese state abroad in the area of social protection is limited to bureaucratic practices (e.g. issue of birth certificates), and to extreme situations. The social protection of citizens abroad is thus visible in the provision of social support to the deprived, in the monitoring of cases of labour exploitation, in assistance to Portuguese detainees abroad, and in situations of deportation, expulsion or equivalent of Portuguese citizens. More traditional areas of the welfare such as unemployment, health care, pensions, etc. did not apply to emigrants and their descendants while abroad. Welfare and social protection in Portugal thus continue to be linked to a *jus domicilis* (residence in a territory) principle, albeit allowing emigrants to access benefits if they made contributions to the Portuguese welfare system during their working life. The protection of emigrants in extreme situations (e.g. exploitation, incarceration, or expulsion) and the guarantee of their social benefits inscribed in the national Constitution are pursued at different scales. The first has an external dimension involving the intervention of the state institutions to assure their fulfilment. The second has an international dimension and are secured through the EU framework and a set of conventions on social security signed between Portugal and several host countries. These conventions expand to Portuguese citizens living in a foreign state the protection that these states offer to their nationals and recognize their contributions in these countries to calculate access to social benefits (Santana-Pereira and Horta 2017). While the first has a long tradition in the Portuguese emigration policy, being a constant theme in the debates on emigration (Pereira 2002; Marques and Góis 2016), the second had a slow development since the late 1950, gaining more prominence after the authoritarian regime in 1974 with the establishment of several social programs and an increasing need of international cooperation. The bilateral and multilateral conventions on social security that Portugal signed with other countries seek to ensure the portability of the social rights that emigrants acquired while abroad and guarantee that Portuguese citizens are treated equally in the host countries. These general objectives of the social protection of citizens living abroad are generally consensual among political parties. Debates and disputes only emerge on the application of this protection when extreme events arise (political and economic crisis in host countries), and when a situation of deprivation or exploitation becomes publicly known. State policies to reach citizens abroad testifies the limits of the Portuguese welfare state in action. The image of an internally weak social protection system is surpassed by the frequent ad hoc measures adopted to support vulnerable Portuguese emigrants. Through these actions, the state projects an image of an always present state that extends the obligation to protect its citizens beyond the limits of its territorially confined borders.

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indicators comparing national social protection and diaspora policies across 40 countries on the following website: <http://labos.ulg.ac.be/socialprotection/>.

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# Chapter 24

## Diaspora Policies, Consular Services and Social Protection for Romanian Citizens Abroad



Felicia Nica and Madalina Moraru

### 24.1 Introduction

This chapter aims to bring to the foreground recent developments regarding the situation of the Romanian diaspora. The first part of the chapter provides a taxonomy of the main public authorities interacting with the Romanian diaspora and of the key social policies affecting it. The second part of the chapter proceeds with an overview of how the institutional and policy setting on Romanian diaspora is working in concrete sectors. It will analyse in detail the policies, programmes and services offered by Romanian authorities to respond to the social protection needs of nationals abroad across five policy areas: unemployment, health care, pensions, family benefits, and guaranteed minimum resources. As we will argue, Romania's engagement with its citizens abroad has concentrated on the preservation and development of the Romanian identity abroad, strengthening Romanian associations abroad, supporting the integration process and protecting the rights of Romanians abroad (National Strategy for Romanians Abroad 2017–2020<sup>1</sup>). In addition, since 2018, diaspora policies have also targeted the return of Romanians by offering them grants

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<sup>1</sup>Available here: <http://www.mprp.gov.ro/web/strategia-privind-relatia-cu-romanii-de-pretutinden-2/>. Accessed March 2019.

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for the implementation of projects or actions.<sup>2</sup> As we will show, policies in the area of social protection are, however, much more limited.

## 24.2 Diaspora Policy Infrastructure and Key Policies

### 24.2.1 *The Romanian Diaspora and Its Relations with the Homeland*

The Romanian emigration has been described as “the biggest, most complex and dynamic migration to Western Europe” (Anghel et al. 2016). After the fall of communism in 1989, Romania encountered several emigration phases (Sandu 2010). At the beginning of the 1990s, the country registered a mass departure of citizens of German origins. Between 1996 and 2001, the migration flow decreased and the main destination countries in this period were the United States (US) and Canada (Sandu 2010). Another major emigration wave started once Romanians obtained the right to travel without a visa within the European Union (EU), subsequent to Romania’s accession to the EU. The Romanian diaspora experienced one of the fastest annual growths (7.3% per annum), following the Syrian diaspora with 13.1% yearly growth rate, between 2000 and 2015.<sup>3</sup> Eurostat (2018)<sup>4</sup> noted that of all EU countries, Romania was the country with the highest numbers of emigrants in the EU in 2017 (87% of all migrants). Italy and Spain represented the main destinations for Romanians between 2000 and 2010.<sup>5</sup> In 2017, while these two countries remained the top two destinations, Germany, the United Kingdom (UK) and France were also important host countries for Romanians abroad.<sup>6</sup> The Romanian diaspora has a significant presence not only in the EU, but also around the globe, in particular in the US and Canada.

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<sup>2</sup>Law no. 321/2006 on allocation of grants for programs, projects or actions supporting Romanians’ activity abroad and organizations representing them, as well as the allocation and use of the dedicated budget of the Ministry for Romanians Abroad for this activity, published in the Official Journal No. 586 of 10 July 2018.

<sup>3</sup>United Nations (2015). International Migration Report 2015 Highlights, 19. <https://bit.ly/1RQIond>. Accessed March 2019

<sup>4</sup>Eurostat (2018). Migration and migrant population statistics, 3. <https://bit.ly/2DuBGjq>. Accessed March 2019.

<sup>5</sup>In Italy, they are approx. 1,150,000 Romanians officially registered, while in Spain - over 900,000 Romanian citizens. See: *Ministerul Muncii, Familiei, Protecției Sociale și Persoanelor Vârștnice* (2017). National Report for the Third Review and Appraisal Cycle of the Implementation of the MIPAA/RIS Romania (2012–2016). [https://www.unece.org/fileadmin/DAM/pau/age/country\\_rpts/2017/ROU\\_report.pdf](https://www.unece.org/fileadmin/DAM/pau/age/country_rpts/2017/ROU_report.pdf). Accessed March 2019.

<sup>6</sup>Around 500,000 in Germany, around 330,000 in the UK and around 110,000 in France (Vintila and Soare 2018).

According to an OECD report,<sup>7</sup> in 2017, the number of Romanian emigrants reached 3.58 million, which represented 18.2% of the population. The report also highlighted that Romania not only registered the highest number of emigrants, but also the highest number of high-skilled emigration into the Group of Twenty (G20) countries (about 492,000 persons in 2010/11). With the exception of the economic crisis period (2008–2013), the number of Romanian emigrants continued to grow until 2018, when the World Bank reported that around three to five millions of Romanians lived and worked abroad.<sup>8</sup>

The growing Romanian diaspora and its potential influence on home country politics has triggered a fast development of the diaspora engaging institutions in Romania, but also a politicisation of diaspora issues. New diaspora institutions emerged, while already existent institutions were adapted to better respond to the needs of the growing number of non-resident nationals. This resulted in a diaspora infrastructure made up of four types of institutions, depending on the governmental level where they were established.<sup>9</sup>

### 24.2.2 *Diaspora Infrastructure*

The Romanian Ministry of Foreign Affairs coordinates an extensive number of external missions (151), which implement the foreign policy guidelines set out centrally at the ministerial level.<sup>10</sup> The Ministry also provides consular services to Romanians abroad through its consular posts. The number of consular representations varies from country to country, with more consulates in Spain (seven) and Italy (six), i.e. the main destination countries. In general, there is a consular section within the diplomatic mission in the respective country and additional consular posts.<sup>11</sup> The Romanian law prescribes the possibility to provide consular services by the consular officers outside the headquarters of a diplomatic mission or consular

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<sup>7</sup> OECD. G20 Global Displacement and Migration Trends Report 2017. <https://bit.ly/2X6Yrmz>. Accessed March 2019.

<sup>8</sup> The World Bank (2018, June) Romania Systematic Country Diagnostic BACKGROUND NOTE Migration, 7. <https://bit.ly/2AapDta>. Accessed March 2019.

<sup>9</sup> At the ministerial level: Ministry for Romanians Abroad; national: Department for the Relation with Romanians Abroad, part of the Presidential Administration; part of a consular network: consulates; quasi-governmental: Eudoxiu Hurmuzachi” Institute for Romanians Abroad and the Congress of Romanians Everywhere. This classification follows the general diaspora institution infrastructure described in: International Organisation for Migration (2013). *Handbook on Diaspora*, p. 72

<sup>10</sup> The full list of permanent external missions is available in Romanian at: <http://www.mae.ro/romanian-missions> [accessed March 2019]. This list does not include the honorary consulates.

<sup>11</sup> For example, in Italy there are six consulates and a Consular Section within the Romanian Embassy in Rome, while in Hungary there are two consulates and a Consular Section within the Romanian Embassy in Budapest [last checked March 2019].

post, which in practice takes the form of mobile consulates.<sup>12</sup> Mobile consulates were created to provide consular services to elderly or sick persons who cannot travel long-distances, persons with less material possibilities or those who do not have the opportunity to travel to the headquarters of diplomatic missions. Mobile consulates provide the same consular services as the Consular Section. However, they cannot substitute the functioning of the Consular Section, as they do not have the capacity to receive and solve all consular services requests from a local community.<sup>13</sup>

Furthermore, to eliminate bureaucratic and geographical barriers to consular services, the Ministry of Foreign Affairs also created an online consular counter/office, where Romanians may lodge requests and interact online with the consulate employees.<sup>14</sup>

According to the Romanian Consular Regulation, “Romania may establish, on a reciprocal basis, honorary consular offices on the territory of other states and may appoint honorary consuls who can be nationals of or citizens of other states and function according to international law, rules, principles and practice”.<sup>15</sup> The Minister of Foreign Affairs has to approve the establishment of honorary consular offices and the appointment of the heads of such offices.<sup>16</sup> Concerning their attributions, the honorary consuls are carrying out consular duties that do not involve the exercise of state authority and thus cannot provide services relating to citizenship, marital status, notarial acts, passport issuance or granting visas.<sup>17</sup>

10 years after Romania’s accession to the EU, a Ministry with full standing was created to address the needs of the Romanian diaspora. The Ministry for Romanians Abroad (Ministerul pentru românii de pretutindeni, MpRP) was established based on the Government Emergency Ordinance No. 1 of 2017 for establishing measures in the field of central public administration and for amending and completing some normative acts. Before that, the needs of nationals abroad were under the responsibility of the Council for the Problems of Romanians Elsewhere (*Consiliul Românilor de Pretutindeni*, established in 1995) and a state sub-secretary for Romanians abroad, created in 1998 (Moraru 2010). From 1999 until 2017, diaspora issues were under the responsibility of a dedicated structure within the Ministry of Foreign Affairs – the Department of Policies for Relations with Romanians Abroad

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<sup>12</sup>Article 1(9) of the Order No. 400/2016 on the technical modalities for the provision of consular services and the control of the fees levied from these services at the diplomatic missions and consular offices of Romania abroad.

<sup>13</sup>Romanian Embassy in the US, Mobile Consulates, available at: <https://bit.ly/2IEIsEn> [accessed March 2019].

<sup>14</sup>See: <https://bit.ly/2FwYBvy> [accessed March 2019].

<sup>15</sup>Article 24 (1) of the Governmental Decision No.760 of 1999 on the approval of the Consular Regulation, as amended by Governmental Decision No. 1085 from 28th October 2010.

<sup>16</sup>Article 24 (2) of Decision No.760 of 1999 on the approval of the Consular Regulation, as amended.

<sup>17</sup>Article 25 (1) and (2) of Decision No.760 of 1999 on the approval of the Consular Regulation, as amended.

(DPRRP). It is noteworthy that these institutional developments actually occurred prior to the biggest emigration wave during mid-late 2000s.

The Eudoxiu Hurmuzachi Institute for Romanians Abroad also used to be subordinated to the Ministry of Foreign Affairs. Currently, the Institute is a public institution of national interest, having legal personality, subordinated to the Ministry of Romanians Everywhere.<sup>18</sup> The Institute aims to support education abroad in Romanian language and, more broadly, the promotion of Romanian language, culture and traditions among the Romanian communities.

The Presidential Administration also has a specialized structure focusing on the Romanian diaspora – the Department for the Relation with Romanians Abroad (AP-DpRRAG). Led by a state counsellor, this Department aims to ensure the collaboration between Romanian institutions and representatives of Romanians abroad, elaborate specific documents and organize activities dedicated to Romanian communities, and represent the President at various events. To accomplish these tasks, the Department is planning, organising and conducting activities in Romania and abroad, which are attended by the President of Romania and have as a theme the dialogue with Romanians abroad.<sup>19</sup>

The Romanian diaspora is also represented in the Romanian Parliament. However, “these external constituencies were geographically divided and did not take into account the number of Romanian citizens residing in the various countries and regions covered” (Vintila and Soare 2018). Namely, two Senators and four Deputies are elected to represent the interests of three to five million Romanians living abroad.<sup>20</sup> One could argue that the interests of the Romanian diaspora are poorly represented in the Parliament when compared to the representation of Romanians living in Romania, which is one deputy for 73,000 nationals and one senator for 168,000 nationals.<sup>21</sup> The issue of underrepresentation of the Romanian diaspora has also been debated by academics, who suggested that the number of the Members of Parliament (MPs) representing the diaspora could be determined by taking into consideration either the number of non-resident Romanians with voting rights or the number of Romanians who, according to the latest Census, left the country for a long time (Jiglău 2016). In addition to this special representation, both parliamentary chambers have designated commissions for the Romanian diaspora.<sup>22</sup>

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<sup>18</sup> Decision No. 17/2017 regarding the organization and functioning of the Ministry for Romanians Abroad, as well as for the modification and completion of the Government Decision No. 857/2013 on the organization and operation of the “Eudoxiu Hurmuzachi” Institute for Romanians from around the world.

<sup>19</sup> Presidential Administration, the Department for the Relationship with Romanians Abroad, available at: <https://bit.ly/2IHh6gL> [accessed March 2019].

<sup>20</sup> This number was cited by the Chamber of Deputies. However, according to the National Strategy for Romanians Abroad 2017–2020, the number of Romanians abroad is currently estimated at almost 10 million - including both Romanians living in diaspora communities and those who live in the historical/traditional communities in neighbouring countries.

<sup>21</sup> Article 5 of the Law No. 208 of 20 July 2015 on the election of the Senate and the Chamber of Deputies, as well as for the organization and functioning of the Permanent Electoral Authority.

<sup>22</sup> See: <https://bit.ly/2JzT4pa> and <https://bit.ly/2GPacK7> [accessed March 2019].

Following the global trend of creating diaspora councils as a source of funding and technical know-how with minimal cost to the government,<sup>23</sup> Romania established the Congress of Romanians Everywhere and its executive body – the Consultative Council of Romanians Everywhere.<sup>24</sup> This is the first institution of this kind created in Romania, representing *Romanians residing abroad at the national level*. The Congress is quite a recent institution, although the obligation of the Parliament to set it up dates back to 2007.<sup>25</sup> The Congress is made up of delegates of Romanians abroad.<sup>26</sup> There are several conditions to become a delegate. Firstly, to present a written intention to represent the Romanian community in the residence country, on the delegate's name, accompanied by supporting documents of residency outside Romania. Secondly, to present a list of at least 250 signatures supporting the candidacy from Romanians residing in the foreign country. Thirdly, the candidates must reside in the foreign country and be at least 18 years old. Delegates are chosen by the Technical Secretariat, which was specifically established to organize the Congress and includes one representative from each parliamentary party.<sup>27</sup> Although the legislation provides that the Congress of Romanians Abroad should be organized annually in Romania or abroad under the aegis of the Romanian Parliament,<sup>28</sup> its first (and only) meeting took place in 2016 (National Strategy 2017–2020). At the time of writing,<sup>29</sup> the Congress organisation and functioning were not yet formally approved by the Parliament.

### 24.2.3 Key Engagement Policies

According to Eurostat (2018), in 2017, the number of Romanian emigrants reached 3,58 million, which represented 18.2% of the Romanian population. Counting the number of Romanians abroad is a complicated task. There is no official register of those residing abroad and it is therefore common practice for Romanians living abroad to maintain a domicile in Romania, while establishing their residence in

<sup>23</sup> See International Organisation for Migration (2013). *Handbook on Diaspora*.

<sup>24</sup> According to Law No. 299/2007, Article 8, “The Congress of Romanians Abroad is convened by the standing bureaux of the Chamber of Deputies and the Senate, in collaboration with M.R.P., and the expenses for the organization and running of the Congress of Romanians Abroad are ensured from the budget of the Chamber of Deputies. (3) On the occasion of its first meeting, the Congress of Romanians Abroad will appoint its governing bodies and will elaborate the rules of operation. (4) The Congress of Romanians Abroad is a forum for debate and consultation of representatives of Romanians everywhere, persons and / or organizations.”

<sup>25</sup> Article 8 of Law No. 299/2007 concerning the support given to Romanians abroad.

<sup>26</sup> Article 3 of the Regulation on the Functioning of the Congress of Romanians Living Abroad.

<sup>27</sup> Article 4(1) Methodology on the organisation of election of delegates to the Congress of Romanians Abroad. This act can be found online [http://www.cdep.ro/docs\\_comisii/diaspora/metodologie.pdf](http://www.cdep.ro/docs_comisii/diaspora/metodologie.pdf) it was not published in the Official Journal.

<sup>28</sup> Article 8 Law No. 299/2007.

<sup>29</sup> March 2019.

another country (Anghel et al. 2016). One possible advantage of keeping a domicile in Romania while residing abroad is that revenues made outside working contracts will be taxed at a lower rate in Romania to Western European countries of residence.<sup>30</sup> Nonetheless, the Ministry of Foreign Affairs recommends Romanian citizens living abroad to voluntarily register their presence in the area, at the nearest Romanian consular office, in order to be contacted in emergency situations. Registration is based on free consent.<sup>31</sup>

Over the years, the Romanian Government has developed policies to support the integration of Romanians in foreign countries and encourage their return to Romania. The goals set by Ministry for Romanians Everywhere, established in 2017, therefore explicitly promote the preservation and development of the Romanian identity for citizens living abroad and their integration abroad (National Strategy 2017–2020).

One central policy to engage with citizens abroad consists in awarding grants to associations, foundations, clubs, other non-governmental organizations of Romanians abroad, international organizations and other authorized natural or legal persons of public or private law from Romania or abroad, insofar as the non-reimbursable financing is used to run programs, projects or actions in support of Romanians abroad.<sup>32</sup> The funds may also cover assistance for establishing Romanian organisations and associations abroad. The overall policy objectives of the MpRP are broader than the previous policy agenda pursued by the Ministry of Foreign Affairs for the Romanian diaspora, which, for instance, did not include the explicit encouragement of return.<sup>33</sup>

The priority of the Eudoxiu Hurmuzachi Institute for Romanians Abroad is to support non-resident nationals in preserving their cultural and linguistic identity through: pre-university training for Romanians abroad; research; training for the teachers; summer camps for pupils or/and students and teachers; cultural, artistic, scientific, educational, documentary activities, mainly for young Romanians from communities in the vicinity of Romania.<sup>34</sup>

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<sup>30</sup>Romania's tax is of approximately 10% of such revenues (see Fiscal Code), while in other countries, the taxes can go as high as 20% or 30% (see for instance, Italy). For more tax data, see the Eures database.

<sup>31</sup>There is also the possibility of having a CRDS passport (electronic passport for Romanians with the domicile abroad): <https://www.mae.ro/node/1428> [accessed March 2019].

<sup>32</sup>Article 3 of the Law No. 321/2006.

<sup>33</sup>The three key policies targeting the Romanian diaspora were: "maintaining the cultural and linguistic identity "of Romanians living abroad; promoting the image of Romania by cultivating relations with the elite Romanians, thus promoting them as models; supporting the integration process by supporting the coagulation efforts of the Romanian communities and affirming a positive identity profile, promoting the image of open communities, oriented towards intercultural dialogue." See: Ministry of Foreign Affairs (2014). Report published by the Department of Policies for Relations with Romanians Abroad, <http://www.mae.ro/node/26399>. Accessed March 2019.

<sup>34</sup>Eudoxiu Hurmuzachi Institute for Romanians Abroad, *Mission and Strategy*, available at: <https://bit.ly/2JBoJqs> [accessed on March 2019].

A considerable role in developing legislative initiatives concerning Romanians abroad is played by the Congress and the Consultative Council of the Romanians Everywhere. The Council provides information, analyses and proposes legislative initiatives for Romanians everywhere, concerning, inter alia, the realisation and application of programs for Romanian communities. These initiatives should be presented to the Romanian Parliament, the Ministry for Romanians Everywhere and other competent governmental institutions with whom they collaborate.<sup>35</sup> However, the Congress' precise role is yet to be fully clarified. So far, the Congress has been organised only once, and the development of its political intentions and programme have been in a stand-by due to the lack of internal agreement in the Parliament regarding the Congress's working methodology. The potential powerful impact of the Congress on the Romanian diaspora has arguably made it the subject of political interest and dispute, with various political parties aiming to get control over this institution for the purposes of using it as a strategic tool for disseminating their political platforms.<sup>36</sup>

Looking at electoral rights, Romanians living abroad have the right to vote in presidential and European Parliament elections, as well as referendum, held in Romania without fulfilling any additional conditions compared to residents. As for national legislative elections, Romanians living abroad have to register in the electoral register by sending or lodging at the Romanian embassy or consular office a written request accompanied by a copy of the identity document and document proving his/her residence, issued by the authorities of the host country.<sup>37</sup>

With regards to the right to stand as a candidate, only citizens who have the domicile in Romania enjoy this right.<sup>38</sup> The four Deputies and two Senators representing the diaspora are elected following the same procedure as the rest of the MPs. Namely, during the legislative elections, citizens elect a political party which proposes its own candidates list (closed lists).

Next to electoral rights, various financial contributions are granted by different authorities to Romanians abroad with the aim of encouraging them to return, which is a significant focus of the Romanian authorities' engagement with the diaspora. For instance, the Ministry of Labor and Social Justice is granting financial incentives for repatriation to Romanian workers who have exercised their right to free movement in the EU and the European Economic Area (EEA) for at least

<sup>35</sup> Article 4 (1) of the Regulation on the Functioning of the Council of the Romanians Abroad.

<sup>36</sup> See: Prisăcaru, M. (2017). "Noi vrem congres!" - *Scrisoare deschisă a Consiliului Românilor de Pretutindeni*, [https://www.stiripesurse.ro/noi-vrem-congres-scrisoare-deschisa-a-consiliului-romanilor-de-pretutindeni\\_1237679.html](https://www.stiripesurse.ro/noi-vrem-congres-scrisoare-deschisa-a-consiliului-romanilor-de-pretutindeni_1237679.html). Accessed March 2019. See also: USR (2018). Poziția USR pe tema Congresului Românilor de Pretutindeni <https://www.usr.ro/2018/01/31/pozitia-usr-pe-tema-congresului-romanilor-de-pretutindeni/>. Accessed March 2019.

<sup>37</sup> Article 42 of the Law 208/2015 on the election of the Senate and the Chamber of Deputies, as well as for the organization and functioning of the Permanent Electoral Authority, see (Vintila and Soare 2018)

<sup>38</sup> See Article 16(3) Romanian Constitution.

36 months.<sup>39</sup> The Ministry of European Funds, with the support of MpRP, developed a funding line for Romanian citizens who recently returned from abroad, named Diaspora Start-Up. This program encourages unemployed, inactive or employed Romanians to start a business in Romania, in their field of specialisation.<sup>40</sup> Lastly, the Ministry of Education and Scientific Research awards scholarships and tuition fees for Romanians with permanent residence abroad for the purpose of supporting undergraduate, graduate, master and doctoral education in Romania.<sup>41</sup>

### 24.3 Diaspora Policies and Social Protection in and outside Romania

When it comes to Romania's involvement in the area of social protection for citizens abroad (see also Burlacu et al. 2020), most activities focus on informing nationals about their social entitlements in the host countries and in Romania. Until January 2018, the Ministry of Public Consultation and Social Dialogue had a separate section on its website with information on employment, social security, pension, residence, health insurance, and other social services in several EU Member States (the UK, Ireland, France, Germany, Spain, Italy, Greece and Cyprus) to nationals already residing abroad or citizens who wish to emigrate. In addition, it also contained useful information for nationals abroad who intend to return to Romania.<sup>42</sup> However, this Ministry was dismantled in January 2018<sup>43</sup> and this specific information was not transferred to the Ministry of Labor.

Additional information is provided by the General Directorate for European Affairs and International Relations within the Ministry of Labor and Social Justice. The Directorate elaborated a comprehensive document with frequently asked

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<sup>39</sup> See Article 76<sup>1</sup> of the Law 76 of 16 January 2002 on the unemployment benefit system and on the stimulation of employment. The only requirement to receive the financial incentive is to return and find a job, there is no need to set up a business.

<sup>40</sup> Ministry of European Funds, *76 million euro for Romanians living in the Diaspora who want to open a business*, see <http://diaspora-start-up.ro/> [last accessed on November 2018].

<sup>41</sup> Government Decision no. 689/1994 regarding the granting of scholarships, doctorates and specialization, other forms of support for young people of Romanian ethnic origin or for Romanian citizens residing abroad; Law no. 299/2007 regarding the support given to Romanians living abroad. See: <https://bit.ly/2paDJIX> [accessed March 2019].

<sup>42</sup> Ministry of Public Consultation and Social Dialogue. Developing the institutional capacity to provide public information services to Romanian migrant citizens. <https://bit.ly/2HasRiH> . Accessed March 2019.

<sup>43</sup> GEO No.1 / 31.01.2018 on the reorganization measures within the central public administration.



questions. This document includes information about the *attachés* on labor and social problems and about social protection in the host country where there is an *attaché*.<sup>44</sup>

Beyond the mere provision of information, the Ministry of Labor and Social Justice has developed a network of 11 *attachés* on labor and social problems based in Romania's diplomatic missions in Spain, France, the UK, Germany, Hungary, Italy, the Netherlands, Sweden and the United Arab Emirates.<sup>45</sup> Some of the *attachés* are covering more than one country. They inform nationals abroad about their rights at work or social security benefits (family allowance, unemployment allowance, pension, etc.) in the country of residence. As observed in Italy, *attachés* also contact local authorities if the labor and social security rights of Romanian citizens are not respected. They can also request information about the Romanian nationals' situation to make sure their rights are respected.<sup>46</sup>

In terms of consular services, every diplomatic mission and/or consular section is obliged to publish on their website the prerogatives of the consular officers. Consular services are clearly mentioned and are limited to the following: issuance of identity and travel documents; obtaining documents from Romania (birth, marriage, death certificates, criminal records certificate, work books, certificates attesting the years of work carried out in Romania); registration of civil status documents issued by foreign authorities; notary acts; Romanian citizenship; marriage at the embassy.<sup>47</sup>

According to Law No. 198/2008 on payable consular services and the handling fees levied at the diplomatic missions and consular posts of Romania abroad, the Ministry of Foreign Affairs is able to make full use of the supplementary fees for expedited administrative services to respond to the following situations: payment of transportation costs for Romanian citizens in special situations and without financial resources, support to children without a legal tutor, including transportation payment, accommodation and daily allowance expenditures for the persons accompanying them when assisted repatriation is required.<sup>48</sup> Nevertheless, following the 2017 legislative amendment, the consular fees were eliminated almost entirely and, consequently, the extra fees for consular services provided in a fast-track manner

<sup>44</sup> Ministry of Labor and Social Justice General - Directorate for European Affairs and International Relations. Frequently Asked Questions. <https://bit.ly/2GRmzB4>. Accessed March 2019.

<sup>45</sup> Ministry of Labor and Social Justice. The list of *attachés* on labor and social problems within Romania's diplomatic missions. <https://bit.ly/2HyfN4E>. Accessed March 2019.

<sup>46</sup> Ministry of Labor and Social Justice and the Romanian Embassy in Italy, the Office of the *Attaché* on labor and social problems. The Romanian Worker's Guide in Italy. <https://bit.ly/2GTriqf>. Accessed March 2019.

<sup>47</sup> Articles 15–21 Government Decision No. 760/1999 on Consular Regulation; Romanian Embassy in Hungary, *Consular services for Romanian citizens*, available at: <https://bit.ly/2qrU0TN> [accessed March 2019].

<sup>48</sup> Article 15 (1) (a) Law No.198/2008 on charged consular services and the handling fees levied at the diplomatic missions and consular posts of Romania abroad.

are almost inexistent.<sup>49</sup> These payments are now mostly covered from the state budget. In practice, repatriation costs are covered by the consular offices or embassies, only in exceptional cases, and require prior ministerial approval.

As a rule, the costs of repatriation of corpses to Romania are borne by the family of the deceased unless they are privately insured. Romanian diplomatic missions or consular offices may pay for the repatriation of bodies only if the family cannot bear such costs and there is no possibility of burial in the state where the death occurred.<sup>50</sup> The costs set out by Article 15 para. (1) of Law No. 198/2008 are not reimbursable. If the beneficiaries voluntarily refund the costs covered by the consulates, the amount will go to the consular office's own revenues.<sup>51</sup>

The Romanian law does not contain any provision on the obligation of consulates to provide in-cash or in-kind benefits to nationals residing abroad in case of non-health related economic hardship, unemployment, or social benefits for families upon birth of a child abroad and/or to raise children abroad. Nevertheless, in the emergency case of the earthquake that occurred in Italy in 2016, the Romanian Government granted additional financial aid to Romanian citizens, complementary to that already granted by the Italian Government.<sup>52</sup>

### 24.3.1 *Unemployment*

Next to EU regulations regarding the access to unemployment benefits of Romanians residing in another Member State,<sup>53</sup> the Romanian law on unemployment benefits does not include provisions regarding Romanians abroad. However, it stipulates that Romanians working abroad may voluntarily contribute to the unemployment insurance system in Romania, only if they are at least 18 years old, they have their domicile or residence in Romania and they are insured under the public pension and health scheme.<sup>54</sup>

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<sup>49</sup>Article IX of the Law No. 1/2017 on the elimination of certain taxes and fees, as well as for the amendment and completion of some legislative acts, published in the Official Gazette no 15 of 6 January 2017.

<sup>50</sup>Article 15 (1) (b) Law No.198/2008 on charged consular services and the handling fees levied at the diplomatic missions and consular posts of Romania abroad.

<sup>51</sup>Article 21(7) of the Order 400/2016 on the technical modalities for the provision of consular services and the control of the revenue from these services at the diplomatic missions and consular offices of Romania abroad.

<sup>52</sup>Romanian Embassy in Italy, Emergency aid for the Romanians affected by the earthquake in Italy, available at: <https://bit.ly/2HhvAai> [accessed March 2019].

<sup>53</sup>Articles 61–65 Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland).

<sup>54</sup>Articles 20(1) (e) and 22 Law 76 of 16 January 2002 on the unemployment benefit system and on the stimulation of employment.

Consulates do not provide cash benefits to nationals residing abroad who find themselves in situation of unemployment. However, if a Romanian citizen living abroad qualifies for unemployment benefits in the host country, but for various reasons he/she does not receive them and his/her social rights are infringed, the Consulate or the *attaché* may then intervene. Official steps may be taken in this regard by the consular officers by way of *inter alia*, enquiring about the Romanian national's situation with the authorities of the residence country or recommend an attorney. If the national does not know exactly the legal procedures, he/she may be informed by the consulate (National Strategy 2017–2020).

The Vienna Convention on Consular Relations provides that one of the consular functions is the provision of help and assistance to nationals,<sup>55</sup> which may be interpreted as potentially including also the provision of assistance for job search. However, the Romanian Consular Regulation stipulates in which cases consulates may provide assistance and protection to nationals, and assistance with searching a job is not among the services included. Furthermore, it is specifically mentioned in the consular assistance leaflet drafted by the Ministry of Foreign Affairs<sup>56</sup> and on the embassies' websites, that the consular officer may not assist a national in his/her job search in the host country. In other words, assistance for searching a job is not considered a consular service.<sup>57</sup> Similarly, unemployment is not considered a cause for benefiting from the repatriation policy set out in Article 15(1) (b) of Law No. 198/2008.

In spite of these limitations, information related to unemployment situations is provided to Romanians abroad through the Romanian Worker's Guide. This document was developed jointly by the Ministry of Foreign Affairs and the office of the *attaché* on labor and social problems from the Ministry of Labor and Social Justice. The guide may be accessed on the embassies' websites.<sup>58</sup> In addition to this general information, there is sometimes also information of interest available within the particular web section dedicated to a foreign country. For example, a guide on Useful information for domestic and care staff (“colf/badante”) is available in Italy, as many Romanians were/are working in this field.<sup>59</sup>

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<sup>55</sup> Article 5(e) of the Vienna Convention on Consular Relations signed on 24 April 1963, entered into force on 19 March 1967, UN Treaty Series, vol. 596, p. 261.

<sup>56</sup> Ministry of Foreign Affairs (2018). Leaflet. <https://bit.ly/2qpRG0B>. Accessed March 2019.

<sup>57</sup> Romanian Embassy in Hungary. What embassy representatives cannot do for you, <https://bit.ly/2GT9nzY>. Accessed March 2019.

<sup>58</sup> See: The Romanian Worker's Guide in Germany. <https://bit.ly/2IJmn7F>. Accessed March 2019. The Romanian Worker's Guide in Spain. <https://bit.ly/2HhpGG4>. Accessed March 2019.

<sup>59</sup> Office of the *Attaché* on labor and social problems. Useful information for domestic and care staff (“colf / badante”) in Italy. <https://bit.ly/2IOqS0K>. Accessed March 2019.

### 24.3.2 Health Care

According to Law No. 227/2015 on the Fiscal Code,<sup>60</sup> only Romanians with the domicile or residence in Romania have the status of taxpayers. This means that they contribute to the social health insurance system, in accordance with the provisions of the EU legislation applicable in the field of social security, and the relevant social security systems agreements to which Romania is a party, as the case may be. Consequently, Romanians living abroad cannot be covered by the Romanian health insurance. Nevertheless, if the person worked also in Romania and he/she applies for invalidity pension in the country of residence (where he/she also worked), he/she is entitled to an invalidity pension from both countries.

In the EU, the country responsible for a person's social security and health insurance depends on his/her economic status and his/her place of residence – not his/her nationality. However, the Romanian Fiscal Code foresees the possibility to contribute to the health insurance system for individuals without income who do not fall into the categories of persons exempted from the payment of the social health insurance.<sup>61</sup> The respective person owes the social health insurance contribution for 12 months, which equals to six gross national salaries, regardless of the date of filing in the declaration.<sup>62</sup> In exchange, the citizen benefits of the same health insurance services as resident nationals.<sup>63</sup>

According to Article 153 of the Fiscal Code, Romanian citizens domiciled or residing in Romania have the status of taxpayers to the social health insurance system, in compliance with the provisions of the EU legislation applicable in the field of social security, as well as of the social security agreements signed by Romania. Consequently, the possibility to pay the health insurance also applies to Romanians abroad, which maintained their domicile in Romania.

In addition, consular assistance and protection is granted in case of serious illness, medical emergencies, deaths, traffic accidents, and arrest or detention by consular service, on request or *ex officio*.<sup>64</sup> Concerning repatriation in case of health issues, there are no specific policies according to which consulates offer repatriation services to nationals residing abroad who encountered economic hardship. Thus, the general rules apply also to these situations.<sup>65</sup>

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<sup>60</sup> Article 153 (1a) Law No. 227/2015 on the Fiscal Code, published in the Official Gazette no 688 of 10 September 2015.

<sup>61</sup> Article 180(1b) Fiscal Code.

<sup>62</sup> Article 180(3) Fiscal Code.

<sup>63</sup> See the website of the national health insurance authority as <http://www.cnas.ro/page/drepturile-si-obligatiile-asiguratilor.html> [accessed March 2019].

<sup>64</sup> Article 14(1) and (2) of the Government Decision on Consular Regulation.

<sup>65</sup> Article 15 Law No.198/2008 on charged consular services and the handling fees levied at the diplomatic missions and consular posts of Romania abroad.

### 24.3.3 Pensions

In the area of pension, Romania's engagement towards nationals abroad is limited to enabling pension exportability for individuals who have worked in the country. Regulation (EEC) No. 1408/71 and Law No. 19/2000 provide the relevant standards governing the transfer procedures for pension benefits. To receive the payment of benefits abroad, the beneficiary of the Romanian pension and other social security rights has to communicate to the regional retirement fund authority the information regarding the account opened abroad where the benefits will be paid and to complete and transmit the Life Certificate, as instructed by the retirement fund authority. In the case of beneficiaries living abroad, the document including the bank details shall be accompanied by a proof of their residence. The declaration may be sent by post or e-mail. Non-resident beneficiaries are obliged to submit a Life Certificate annually by 31st of December of each year. A legal authority of the host country has to certify that the Life Certificate was signed by the beneficiary. The legal authority may also be a diplomatic mission or consular office of Romania in the state of residence.<sup>66</sup> The retirement fund authority and its regional offices are competent to receive and assess the requests for pension transferability. The *attachés* on labor and social problems appointed by the Ministry of Labor and Social Justice may also provide information on the pension schemes, which exist in the countries where the *attachés* are present.

### 24.3.4 Family-Related Benefits

Romania has no policies regarding birth grants neither for nationals living in Romania, nor for those abroad. However, in 2017, the General Council of the Bucharest Municipality adopted a decision on granting a financial incentive to parents of a child born in Bucharest.<sup>67</sup>

The National Agency for Payments and Social Inspection (ANPIS) is the central institution that manages the payment of all benefits of social assistance and has *inter alia* the following tasks: ensures correspondence with Member States through European forms on social assistance benefits for child and family support; informs interested parties about the rights to social assistance benefits for children and family support based on EU regulations; elaborates responses to petitions addressed by natural or legal persons, from the country or abroad, regarding the criteria for entitlement to social assistance benefits for the support of the child and the family in Romania, according to the provisions of Regulation No. 883/2004.

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<sup>66</sup> Romanian Embassy in Italy. Pension transfer and life certificate. <https://bit.ly/2vbqpDU>. Accessed March 2019.

<sup>67</sup> General Directorate for Social Assistance Bucharest, Financial incentive for new-born children, <https://bit.ly/2v8b6fb> [accessed March 2019].

Following widespread concerns over the number of children left behind by parents who emigrated, the Romanian authorities enacted special provisions in order to protect children in these situations.<sup>68</sup> According to the Child Protection Act,<sup>69</sup> a parent who exercises the parental authority alone and who is about to go to work abroad has the obligation to notify this intention to the public social service at home, at least 40 days before leaving the country. The notification shall include the person designated to take care of the child during the absence of the parents or the guardian. The guardianship court has to confirm the person who will be in charge of taking care of the child left behind. Several conditions have to be fulfilled by the designated person. The law also prescribes a monitoring procedure on how the child whose parents went abroad to work is raised and cared for.

### 24.3.5 *Economic Hardship*

The guaranteed minimum income scheme foreseen by Law No. 416/2001 on Guaranteed Minimum Income is not accessible to Romanians living abroad. Beneficiaries of this scheme are Romanian citizens and foreigners with domicile or residence in Romania and homeless persons.<sup>70</sup> The monthly minimum guaranteed income is determined based on the social reference indicator (*indicator social de referinta*, ISR) set by the law.<sup>71</sup> The guaranteed minimum income cannot be transferred abroad since the persons who are benefiting from it have certain obligations requiring their presence in Romania.<sup>72</sup>

Concerning financial help for those facing economic hardship, there are no specific policies according to which consulates offer financial help to Romanians living abroad in this situation beyond the intervention of consular assistance in the exceptional circumstances mentioned above. The guaranteed minimum income cannot be transferred abroad since the persons who are benefiting from it have certain obligations, which require their presence in Romania, more exactly in the municipality where they requested social assistance. Thus, one or more family members are obliged to do community work aiming at social integration.<sup>73</sup>

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<sup>68</sup>The precise number of the children left behind by Romanian parents is subject to debate. While media publication reports approximately 300,000 children in such a situation (<http://bonafides.be/romanians-abroad-a-diaspora-in-conflict-with-itself/>), Save the Children Romania cited data collected by the National Authority for Children Protection, which was of 94,700 in 2018, on the rise from 85,000 in 2015. However, the later data might not reflect the reality; the actual number might be higher, since most parents do not report to the National Authority for fear of repercussions.

<sup>69</sup>Articles 104–108 of the Law No. 272 of 2004 on the Child Protection Act.

<sup>70</sup>Articles 1(1), 2(7) and 3(2) Law No.416/2001.

<sup>71</sup>More details are set out in Law No. 76 of 16 January 2002 on the unemployment benefit system and on the stimulation of employment.

<sup>72</sup>Articles 6, 14(1), 15(7) Law No.416/2001.

<sup>73</sup>Article 6 Law No.416/2001.

In addition to the guaranteed minimum income, the law also prescribes other forms of social assistance, such as: the social protection measures during the cold season<sup>74</sup> and family allowance.<sup>75</sup> These benefits are also not accessible to nationals residing abroad.

## 24.4 Conclusions

The legal and policy framework regarding consular assistance of Romanians abroad has substantially improved since 2016, influenced perhaps by the rising number of Romanians living abroad and their potential influence in national elections.<sup>76</sup> The institutional setting has expanded in terms of both specialized bodies and total number of consular officials, with the stated aims of maintaining and promoting national identity, promoting diaspora associations, and aiding with the integration process of Romanians in their new host communities. The elimination of emergency consular taxes or the increase of financial support allocated to Romanians during the earthquake in Italy were additional steps taken by the Romanian Government to respond to the needs of the diaspora.

In addition to offering increased institutional and financial support to Romanians abroad, efforts have been made to attract emigrants' return back to Romania. Examples in this regard are the financial help to start-up businesses for those wishing to return to Romania or the reintegration support via the specialized programme InvestRomania. One might find these external and internal measures as reflecting a positive development of the Romanian institutional and policy setting dedicated to its diaspora. The main drawback of the policy agenda for Romanians abroad is the lack of empirical evidence to support the choice of these prioritised objectives and their substantiation in policy instruments. It is not evident why those particular objectives were chosen and not others, in absence of a well informed impact assessment or study assessing the needs of the Romanian diaspora preceding the adoption of the national strategy. Therefore, it is debatable that they actually reflect the needs and wishes of Romanians abroad (Martinescu and Burlacu 2019).

In conclusion, it is worth mentioning perhaps the biggest challenge faced by diaspora issues, that is their politicisation. This phenomenon made diaspora associations financially dependent on public funding – an allocation that has been argued to lack transparency (Martinescu and Burlacu 2019), and led to a persistent political misrepresentation of the diaspora in the Parliament. Given the recent reform of the institutional and policy setting on diaspora, it remains to be seen how it will unfold in practice. In particular, whether they will achieve the stated aims and develop into a consistent, coherent and efficient apparatus, given the challenge of proliferation of specialized institutional bodies.

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<sup>74</sup>Emergency Ordinance No. 70/2011 on Social Protection Measures during the Cold Season.

<sup>75</sup>Law No. 277/2010.

<sup>76</sup>Triculescu, R. The Romanian Diaspora as an Unlikely Opposition. <https://chargedaffairs.org/romanian-diaspora-opposition/>. Accessed March 2019.

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# Chapter 25

## Diaspora Policies, Consular Services and Social Protection for Slovak Citizens Abroad



Michal Vašečka and Viera Žúborová

### 25.1 Introduction

This chapter provides an overview of Slovak diaspora policies, by focusing on the main features and developments of policies in the area of cultural protection and identity building through education. It shows that the country's diaspora policy programs have given priority to educational and cultural engagement of ethnically defined Slovak nationals residing abroad. In particular, the chapter highlights how Slovakia's policies for citizens abroad are characterized by a focus on improving the knowledge of national culture and language of citizens abroad and are driven by symbolic ties between diaspora and homeland.

### 25.2 Diaspora Characteristics and Home Country Engagement

The issue of Slovaks living abroad has never been discussed in detail in Slovakia. The approach towards Slovaks living abroad, both at institutional and non-institutionalized levels, is influenced by the protection of the ethnicized Slovak primary group, no matter where Slovaks live and what is their recent citizenship status. Legal norms dealing with “foreign Slovaks” have been changed twice - after Hungary passed the Law on Hungarians living abroad (the so-called Status Law) in 2001 and after the country's entry into the European Union (EU) in 2004. Issues related to the diaspora were never widely discussed nor controversial at the national level. This is due to the essentialist consensus on the “natural connections” between

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Slovaks living in Slovakia and abroad that is supported by the active involvement of the so-called “foreign Slovaks” in homeland affairs.

The term “Slovaks living abroad” was used for the first time in 1992 in the Constitutional Act: “*The Slovak Republic shall support the national awareness and cultural identity of Slovaks living abroad, support the institutions established to achieve this purpose and relations with their home country*”.<sup>1</sup> However, the first legislation which dealt with the issues of Slovaks living abroad did not come into effect until 1997. The rights of “foreign Slovaks” are guaranteed by the National Council of the Slovak Republic, Act No. 70/1997 on Slovaks living abroad.<sup>2</sup> A Slovak living abroad (or so-called Expatriate Slovak) is a person to whom such status can be granted on the basis of the Slovak nationality of a person residing in a foreign country or the Slovak ethnic origin and Slovak cultural and language awareness of such person. If he/she is willing to hold such status, he/she needs to request for the special certificate of the status “Slovak living abroad”. For the purpose of this law, an expatriate Slovak is someone with direct ancestors up to the third generation that held Slovak nationality. Applicants to this status must prove their Slovak nationality or Slovak ethnic origin by presenting supporting documents (such as birth certificates, baptism certificates, registry office statements and/or a proof of nationality or permanent residency permit).

The last legislative act came into effect in 2005 as Act no. 474/2005 Coll.<sup>3</sup> on Slovaks living abroad and it replaced Act no. 70/1997 Coll. on Slovaks abroad. The newest legislative act defines Slovaks living abroad according to two characteristics. Firstly, they can be individuals living abroad, without Slovak nationality, who are citizens of another country, but wish to claim Slovak nationality and show interest in promoting or maintaining the Slovak nationality abroad. Among them, there is also individuals claiming Slovak nationality through their direct ancestry. Secondly, this legislation defines as Slovaks living abroad also individuals residing abroad without citizenship, or those who are citizens of other countries, but who declare Slovak ethnicity, display Slovak identity or ancestry and are interested in it. However, these people do not need to demonstrate their willingness to apply for Slovak citizenship. According to the latest report of the Office for Slovaks Living Abroad, more than 2000 certificates of Slovaks living abroad were issued to non-nationals in 2017, mostly to individuals attracted by the possibility to enter the Slovak labour market (see below). Applicants were from Serbia (1646), Ukraine (355), the United States of America (6), Russia (5), and Bosnia and Herzegovina (4).

There are certain limitations to this definition. The applicant ought to be of Slovak ethnicity (up to the third generation), or he/she has to prove Slovak language

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<sup>1</sup> *Ústava Slovenskej republiky* (Constitutions of Slovak Republic) č. 406/1992 v znení neskorších predpisov <http://www.nrsr.sk/web/default.aspx?SectionId=124>. Accessed May 4, 2018.

<sup>2</sup> *Zákon 70/1997 o zahraničných Slovákoch* (Act No. 70/1997, on Slovaks abroad). <http://www.uszz.sk/sk/zakon-701997-o-zahranicnych-slovakoch>. Accessed April 26, 2018.

<sup>3</sup> *Zákon 474/2005 o Slovákoch žijúcich v zahraničí a o zmene a doplnení niektorých zákonov* [Act No. 474/2005, Slovaks living abroad (1997)] [http://uszz.sk/data/2016/ZZ\\_2005\\_474\\_20160101.pdf](http://uszz.sk/data/2016/ZZ_2005_474_20160101.pdf). Accessed April 26, 2018.

abilities and Slovak cultural awareness. These criteria can be demonstrated with official documents or testimony by a Slovak organization abroad or with a written testimony of at least two individuals with the status of Slovaks living abroad. With these official documents, there is a possibility to enter the procedure even though these criteria are clearly subjective.

### ***25.2.1 The Slovak Diaspora and Its Relations with the Homeland***

According to the Act No. 474/2005, state institutions recognize three groups of Slovaks living abroad. The first group is defined by their historical link with the Slovak nation. These Slovaks are dominantly “autochthonous Slovaks” living in Central and Eastern Europe (Hungary, the Czech Republic, Croatia, Serbia, Poland, Ukraine and Romania) (Table 25.1).

The second group of nationals living abroad reside predominantly overseas, especially in Canada and the United States (US). Large-scale migration from the Slovak Republic to these countries took place mostly in the period between 1880 and 1930. This older migration entails that third and fourth generation migrants have weaker ties with the Slovak Republic. Another factor influencing the weakening ties is also the difficult and unclear bureaucratic procedure to obtain Slovak citizenship with requirements almost impossible to achieve (Table 25.2).

The third group of Slovaks living abroad are communities living in EU15 countries (defined as “Western Europe”) that massively grew in the period of “modern migration” after the fall of the iron curtain and after the EU enlargement. Slovak communities are visible in the states where they never been active before - for example in Spain, Italy, the Netherlands, Ireland and the United Kingdom. It is common practice among Slovaks living in Western Europe to keep their temporary residency in the Slovak Republic, which means they are still counted as citizens of

**Table 25.1** Number of Slovak national minorities in Central and Eastern Europe

Country	Counting of individuals 2001	Counting of individuals 2011	Estimation of Nationals
Czech Republic	193,190	148,000	350–400,000
Croatia	4713	4753	10,000
Hungary	17,693	29,647	100,000
Poland	1710	3500	12,000
Romania	19,000	17,199	25,000
Serbia	50,021	52,750	52,750
Ukraine	6397	6700	12,000

Source: Office of Slovaks living abroad, Report 2016

**Table 25.2** Number of Slovaks living overseas

Country	Official data	Estimated data
Argentina	24,000	28,000
Canada	50,800	56,000
US	560,000	750,000
Australia	15,400	25,000

Source: Office of Slovaks living abroad, Report 2016

**Table 25.3** Number of Slovaks living in Western Europe<sup>a</sup>

Country	Official data	Estimated data
United Kingdom	90,000	110,000
Ireland	24,000	30,000
Germany	21,000	32,000
France	8500	10,000
Italy	3000	4500
Spain	1200	2000
Austria	3800	5500
Belgium	6000	7000

Source: Office of Slovaks living abroad, Report 2016

<sup>a</sup>The category is rather unclear, although the term “Western Europe” is officially used as such by the Office for Foreign Slovaks

the Slovak Republic and eventually might return at some point of their life in Slovakia (Table 25.3).

### 25.2.2 *Diaspora Infrastructure*

As noted above, Slovakia’s diaspora policies are mostly in the area of culture and identity. To implement those policies, different institutions co-exist. At the national level, the official institution responsible for engaging with Slovaks living abroad is the President of the Slovak Republic. The President’s role in interactions with Slovaks living abroad is to cooperate with the diaspora representatives in the area of cultural heritage protection and enhancement of cooperation with diaspora communities. For instance, the resident has the prerogative of granting state honours to Slovak personalities living abroad.

Like in other Member States, the consular network is a central institution in dealing with citizens abroad. Consulates are operating under the Ministry of Foreign Affairs and European Issues and are present in 57 countries. It is to be noted that, out of a total number of 72 consulates, nine do not yet fulfil the required technical conditions to function as consulates (built-in necessary transmission information networks). Next to the consular network, eight Slovak Institutes (institutionalized organizations responsible for the presentation of Slovak culture and art) operate in the Czech Republic, France, Hungary, Germany, Poland, Austria, Russia, and Italy.

Consulates provide services for Slovak nationals living abroad, they collect and process applications for the status of Slovak national living abroad and grant the status of Slovaks living abroad. The application could be submitted either by mail or in person to the Office for Slovaks living abroad or to the Slovak embassies or consulates. One part of the application is the document verifying Slovak nationality (diploma, ID, certificates) or proof that some of the applicants’ direct ancestors (up to third generation) held Slovak nationality, and the document verifying applicant’s Slovak cultural and language awareness. The other official documents required for this process are clear criminal record statement from Slovakia, the proof of current residential place, passport, and birth and marriage certificates.

In addition to classic consular services offered to citizens abroad, Slovakia also offers electronic consular services since 2014. Slovak citizens can apply online for the following documents: driving license; passport; ID card; provision of substitute travel documents; extract from the criminal record; certificate of a Slovak living abroad and arrangement of a weapon transport document. It is to be noted however that, while citizens can apply for these documents online, they have to pick them up in person at the consulate.

As shown in Fig. 25.1, the Office of Slovaks living abroad— created in 2005— is the central actor in Slovakia’s diaspora infrastructure. In its status, the Office is considered as “*the central government authority for relations between the Slovak*

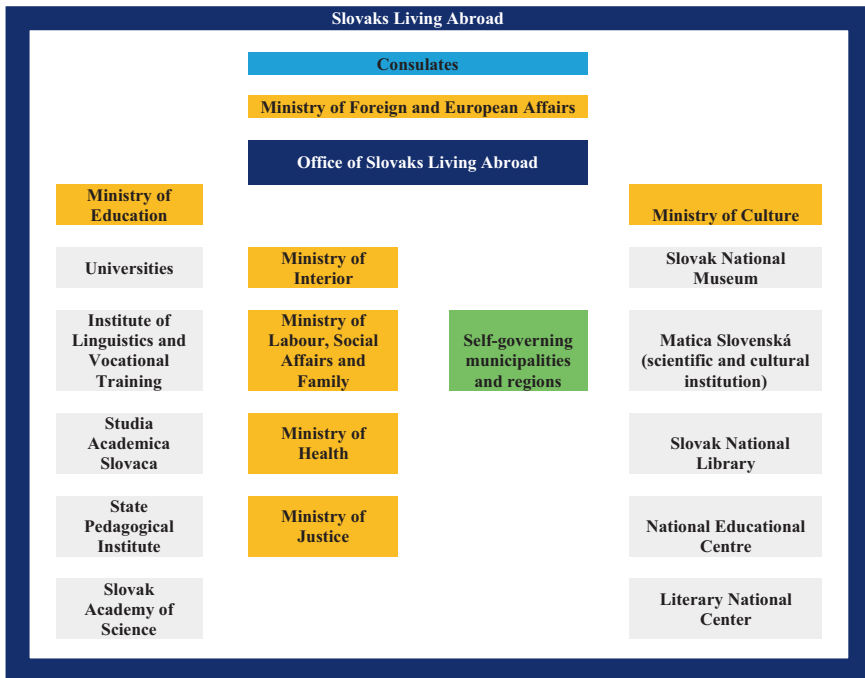


Fig. 25.1 Slovak diaspora infrastructure (Source: Office of Slovaks living abroad, 2016)

*Republic and Slovaks living abroad, and state support to Slovaks living abroad*" (2005). For this reason, coordinating diaspora policies with other ministries is one of its three core missions. The other two are conducting joint activities with associations of ethnic Slovaks in all countries and documenting the life and activities of Slovaks living abroad. The Office is located in Bratislava and its budget is directly connected to the budget of the Office of the Government of the Slovak Republic. The Office is led by a chairman, nominated by the Government of the Slovak Republic for a five-year term.

In spite of the diversification of the Slovak diaspora in recent years, the Office of Slovaks living abroad is still very much focused on the protection of traditions and the heritage of traditional Slovak diaspora living in neighbouring countries that constitute autochthonous minorities in those countries. The focus on this population has attracted criticism from non-governmental organizations, the academia and the media that point out to issues that may affect recent Slovak migration and that are not the Office's priority such as brain-drain or the depopulation of marginalized regions of Slovakia.

One of the Office's main action to support Slovaks abroad concerns the financing of activities abroad focusing on education, research, information, and culture. Organizations abroad can apply for subsidies to conduct activities in those areas. This focus on cultural and symbolic activities means that their impact on the socio-economic conditions of Slovaks abroad is not necessarily obvious. Indeed, supporting such kind of activities primarily aims to improve cultural relations and historical ties between the diaspora and the Slovak Republic. This perception is also reinforced by the Office's support for publishing activities, broadcasting in Slovak language abroad, education events, activities that support cooperation between Slovak nationals living abroad and the homeland, as well as promotion of cultural heritage. In the area of education, the Office finances the establishment and activities of Slovak schools, education centres, and pre-school equipment for Slovaks living abroad that can indeed respond to social needs of communities abroad.

### **25.2.3 Key Diaspora Policies**

The previous discussion on diaspora infrastructure demonstrated that the main objective of diaspora policies is to encourage cultural, linguistic, and religious identity of Slovaks living abroad. Other policies and services in the field of social protection (health, employment, or social services) rely for the most part on international law, bilateral agreements with other states and EU legislation. Overall, it can be argued that the country's diaspora policies are not aimed at providing services to Slovak nationals living abroad, but rather at strengthening ties at the cultural level. In this section, we show that because they favour ethnic Slovaks abroad independently of their nationality, it can be argued that Slovak diaspora policies promote a

vision of citizens based on cultural affinities that resembles that of Hungary (Vašečka 2008).

Two main official documents regulate the relations between Slovakia and its diaspora. The first one is Act no. 474/2005 on Slovaks living abroad (often translated into English as Act on Expatriate Slovaks) that came into effect in 2005 and defines the involvement of the state institutions towards Slovaks abroad and the main policies of engagement with nationals living abroad.<sup>4</sup> The second document is the Declaration of the State Policy of the Slovak Republic in relation to Slovaks living abroad for the period 2016–2020. This document does not contain *per se* any institutionalized commitment for the state organizations and institutions to create special policies, programs or services to respond to the needs of nationals living abroad. Yet, the document insists on the importance for Slovakia to engage in the areas of culture and education, and define key institutions, organizations, programs, and grant schemes that cover these areas of interest.

Examining it in more details, Act No 474/2005 sets important principles on the way Slovak institutions ought to treat the diaspora. First, the principle of equal treatment entails a prohibition of discrimination in provision of the state assistance with regards to gender, race, skin colour, language, faith and religion, political or other beliefs, social origin, wealth, descent, or other status. Second, the principle of territoriality states that institutions have to respect the territorial sovereignty and integrity of the state, of which the Slovak living abroad is a citizen, or in the territory of which the Slovak living abroad has a domicile. Third, the principle of “specific approach” means that the cultural objectives of Slovak diaspora policies have to be adapted to the specific needs of Slovaks living in different countries of residence.

In addition, the central feature of the Act on Slovaks living abroad is the creation of a preferential treatment for foreign Slovaks. This entails a series of exceptions and specific benefits that their holders can enjoy only on the territory of the Slovak Republic even when they do not hold Slovak nationality. To begin with, foreign Slovaks do not require a visa to enter the territory of the Slovak Republic and have the right to permanent residence. Similarly, the status of foreign Slovaks gives one the right to apply for admission to any educational institution in Slovakia, apply for employment without a work permit and apply for the Slovak citizenship. Foreign Slovaks also benefit from a waiver on the specific restriction to acquisition of property that applies to foreigners in Slovakia. Overall, holders of this status use it as an instrument to obtain legal residence and employment in Slovakia.<sup>5</sup>

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<sup>4</sup> *Koncepcia štátnej politiky starostlivosti o Slovákov žijúcich v zahraničí do roku 2015* (The general vision of state policy of care for Slovaks living abroad till the year 2015). [http://www.uszz.sk/data/files/519\\_koncepcia\\_do-r-2015.pdf](http://www.uszz.sk/data/files/519_koncepcia_do-r-2015.pdf). Accessed May 4, 2018.

<sup>5</sup> *Správa za rok 2016 o štátnej politike vo vzťahu k Slovákom žijúcim v zahraničí* (Report 2016 on state policies in relation to Slovaks living abroad). <http://www.uszz.sk/sprava%2D%2Dza-rok-2016-o-%2D%2Dstatnej-politike-vo-vztahu-k-%2D%2Dslovakom-zijucim-v-zahranici>. Accessed May 4, 2018.

Over the years, ethnic Slovaks have inserted themselves in different economic sectors of the Slovak economy whether they came from Romania (e.g. agriculture, mining, and construction), former Yugoslavia (e.g. higher education) or Ukraine (construction, service industry). As the Slovak Republic has faced shortage of labour force since 2017 and unemployment has reached historical low figures, discussions have also started on the necessity to motivate Slovaks living abroad to return. Consequently, the Government of the Slovak Republic prepared a strategic document called “Complex action plan for the return of Slovaks working abroad to return back to Slovakia”. The document focuses mainly on promotion of the state portal for seeking employment on the official websites of the Slovak consulates abroad. This service intends to provide Slovaks living abroad with easier access to employment offers. Nevertheless, the document has been criticized to be very vague and formal and not considering the practical solutions and measures. Therefore, although activities described in the document were supposed to start at some point in 2018, the document has never been introduced to the Parliament and was not followed by any further actions. Similarly, the financial stimuli out in place by the Government to attract Slovaks back home only met the interest of a handful of Slovaks living abroad.

In addition to the two above-mentioned documents, the Act of Foreign Service No 151/2010 is of specific interest only for holders of Slovak nationality living abroad. This Act regulates the missions of consulates towards nationals living abroad in the areas of birth, marriage, death, and inheritance. This legislation also defines consular protection which is accessible to nationals residing abroad in situation of danger by providing loans to nationals abroad (only in cases of emergency) or financing transportation back to Slovakia. In cases of war, natural disasters, war or violent/armed conflicts, consulates also take measures to inform and inquire about Slovak citizens affected and continuously evaluate the situation. Beyond these basic services than can be found in many chapters discussed in this volume, it is to be noted that, since 2012, the Slovak Ministry of Foreign Affairs and European Issues and the Slovak telecom providers have set up a service by which a holder of a Slovak SIM card who is abroad can receive information about consular services in destination countries.

Looking at electoral rights, Slovak nationals living abroad can vote by mail and stand as candidate in parliamentary elections, and vote in referendums. Citizens who reside permanently abroad must request their registration on a dedicated electoral register by mail to the Department of election, referendum, and political parties of the Ministry of Interior. With the application, one needs also to send a photocopy of the Slovak nationality certificate, a photocopy of a part of the Slovak Pass, and a statement in the national language that one does not have a permanent residence in Slovakia.



## **25.3 Diaspora Policies and Social Protection in Slovakia**

In this section, we show that Slovak policies in the area of social protection for citizens living abroad are rather weak and rarely exceed the obligations set by the EU framework. Yet, we will show that, for a number of dimensions, ethnic Slovaks have a preferential access to welfare provided that they move to Slovakia. This confirms that Slovakia's diaspora policies rely mostly on ethnic affinities and consider return as a preliminary condition to access most rights. Similarly, Slovak consulates are providing limited services in the area of social protection abroad. Their role is mostly informative as they frequently provide Slovaks living abroad with necessary information about home and host country benefits, even though they are not obliged to do so by law. Discretion is thus a key feature of consulates' intervention in this area. Lastly, while its activities are focused on cultural and educational issues, the Office of Slovaks living abroad also provides very general information on social security, family benefits or other benefits.

### ***25.3.1 Unemployment***

Beyond EU regulations, there are no specific programs or policies for Slovaks living abroad in the area of unemployment. Consulate may help Slovak nationals abroad in situation of unemployment but, as stated earlier, this is not a legal obligation and consists mostly in the provision of information or in helping nationals to contact their family.

In destination countries, several diasporas organizations have the mission to help their nationals living abroad with employment issues and may also receive financial support from the Office of Slovaks living abroad to do so. For instance, the Slovak Centre in London is a non-governmental organization that helps Slovaks living abroad with job search, mostly by providing information.

As mentioned earlier, emigration from Slovakia combined with the country's low level of unemployment has created labour shortages in certain economic sectors, which have created employment opportunities for third-country nationals including ethnic Slovaks and potential holders of the status of Slovaks living abroad. As discussed, the latter category of individuals have guaranteed access to social services and to the labour market, but this require their physical relocation to the Slovak territory.

### **25.3.2 Health Care**

The Slovak health care system is based on mandatory health insurance contributions. Every individual with permanent residence in Slovakia is obliged to contribute to the system and Slovak nationals who reside in another EU Member State naturally benefits from EU provisions in this area. Compared to other social protection dimensions, ethnic Slovaks holding the certificate with the Status of Slovaks living abroad have no preferential access to health and need to be insured in commercial insurance company as public insurance is reserved to residence holders. This entails that the holder of the Certificate of Foreign Slovak who comes to Slovakia and does not have health insurance is obliged to pay for all the medical procedures in the Slovak Republic. This policy has not changed in any way for years and individuals who have the status of Slovak living abroad need to rely on the destination country or private insurance company that may allow them to retain access to the Slovak health system. There are, however, certain exceptions, as set by Law No. 250/2011 about health insurance. Students who hold the status of Slovaks living abroad and study at Slovak schools and universities can access public health insurance. Lastly, it is to be noted that urgent medical care is also provided to everyone independently on their legal status in Slovakia, but it is not free of charge.

### **25.3.3 Pensions**

In Slovakia, pensions are accessible to individuals who reached 62 years old and have been insured for at least 15 years. Slovaks living abroad, in the same way as any other EU nationals, are entitled to live and work in another EU country and may accordingly draw on a pension of other Member States or export their Slovak pension abroad.

In Slovakia, no regulation obliges state institutions and consulates to help Slovaks living abroad, nor do they offer them any special benefits. On a discretionary basis, consulates may, however, provide information and administrative support to applicants seeking information about social services or rights to apply for pension in home and host country.

Nationals residing abroad who meet the criteria and wish to claim a Slovak pension abroad are required to submit a large number of documents (birth certificate, valid identity document, certificate of completed education, military service book or another document issued by the competent military administration, decision of the Social Insurance Agency on the spouse's pension, proof of employment confirming the period of employment abroad prior to May, 1 1990 in countries, with which Slovakia has not concluded an international agreement on social insurance, etc.).

### **25.3.4 *Family-Related Benefits***

Like in previous social protection areas, the role of the consulates is discretionary and mostly limited to providing information about family benefits. Similarly, Slovakia's provisions for the diaspora are focused on ethnic Slovaks willing to return to the homeland.

As mentioned, the certificate on the status of Slovaks living abroad offers the opportunity to apply for temporary residence in Slovakia (up to 5 years with the possibility of renewal) without giving the reason for the stay, as it is required for nationals from other countries. Altogether with this provision comes another one usually perceived as an important one by Slovak authorities – those who hold the status of Slovaks living abroad do not have to prove any other administrative permits or financial capacity for their stay in Slovakia. Unlike third-country nationals who need to hold permanent residence, ethnic Slovaks have immediate access to two type of benefits after receiving the right to temporary residence. First, they get free access to state kindergartens and can study free of charge at public schools and universities (the same conditions apply to all EU citizens living in Slovakia). Second, they get immediate access to the children allowance scheme.

In addition, according to Act no. 474/ 2005 Coll., on Slovaks living abroad, families willing to send their children to study in Slovakia can benefit from the Act and get subsidies (provided that they hold the certificate of status of Slovaks living abroad). As stated above, this type of provision concerns people with the status of Slovak living abroad who are nationals of third countries. For them, the state institution upon request pays the whole fees for children, including accommodation, meals, and school fees. This provision concerns mostly people from autochthonous minorities from neighbouring countries that are not members of the EU (Ukraine, Serbia, and Macedonia).

### **25.3.5 *Economic Hardship***

As a general rule, there is there is no policy by which consulates ought to provide financial help to nationals abroad in case of economic hardship or homelessness. Consulates do not provide in-kind benefits, such as access to material goods or services. Unlike what we showed for employment and family-related benefits, ethnic Slovaks do not benefit from any preferential treatment in this area. In case of economic hardship, Slovak consulates can only intervene for Slovak nationals and this in a very limited way. Their mission includes the issuance of a travel document to facilitate return to Slovakia, helping nationals to contact relatives to secure funds to return to Slovakia, advising on how to receive financial assistance from the Slovak Republic or informing charitable organizations that could provide emergency assistance (e.g. short-term accommodation). However, Slovak consulates do not pay

travel tickets, provide accommodation nor pay any kind of bills for Slovak citizens abroad.

In spite of these strict rules, some consulates, on a discretionary basis, do offer medical help in exceptional medical circumstances, repatriate nationals in countries affected by natural disasters or in exceptional circumstances that receive significant media attention (e.g. the repatriation of Slovak paragliders captured and held in Iran for alleged spying in 2013).

## 25.4 Conclusions

This chapter has highlighted a central feature of the Slovak diaspora policy: it grants preferential treatment of Slovak autochthonous communities abroad. Together with the Hungarian status law, it is the best example of ethicized understanding of a “core group” and broadly of citizenship as well. We showed that through the laws on “foreign Slovaks”, this group has become a privileged subgroup within the diaspora that benefits from most of the homeland’s attention. In this sense, the fact that their unique status within the Slovak legal system has not been criticized by any relevant political or social group within the Slovak society is very revealing of the ethnical definition of the nation that is widely shared.

As Svetluša Surová (2016) highlighted, diaspora is holding the same status as Slovaks living in homeland and benefits from a clear recognition in the Constitution. This status is rather symbolic and aims to stimulate feelings of belonging to the nation, rather than addressing their social needs. This is certainly true for ethnic Slovaks who are nationals of another EU Member State who are protected by their EU citizenship status. For ethnic Slovaks coming from third countries, on the contrary, the recognition of their status grants them with preferential access to the Slovak territory and with limited privileges in the area of welfare compared to other third-country nationals.

Most importantly, we showed that Slovak diaspora policies aim primarily at reinforcing the cultural belonging of the diaspora by funding activities in the areas of education and culture. This approach granting favourable treatment to ethnically defined groups abroad is however revealing of a vision of citizenship that is not in line with the evolution of contemporary mobilities to and from the Slovak Republic.

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# Chapter 26

## Diaspora Policies, Consular Services and Social Protection for Slovenian Citizens Abroad



Mojca Vah Jevšnik and Sanja Cukut Krilić

### 26.1 Introduction

This chapter explores the general institutional framework by which Slovenian authorities interact with nationals abroad, with a focus on reviewing the type and scope of diaspora engagement policies in the area of social protection. It shows that the country's engagement with its diaspora is mostly of political and cultural nature, which is manifested in granting extensive voting rights and adopting policies that are embracing and promoting the ethno-nationalist ideas of joint Slovenian ancestry, ethnic identity and cultural heritage. However, extending social protection to diaspora beyond the basic social security bilateral agreements has not been a specific priority. In line with this political and policy agenda, Slovenia gives preferential access to Slovenian citizenship to descendants of emigrants. It has also introduced a law that grants a variety of privileges to Slovenian emigrants and their descendants who do not possess Slovenian citizenship, such as preferential enrolment at institutions of higher education, access to national funding for scientific research and priority in employment over third country nationals. Social protection for emigrant populations, however, remains limited across the main social policy areas. This can be explained also by the structure of the Slovenian social protection system, which is based on compulsory social insurance contributions and is inextricably linked to the status of employment in the Republic of Slovenia as the main basis for benefit entitlement. The chapter first outlines the main characteristics of

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Slovenian diaspora, diaspora infrastructure, and key engagement policies. It then presents the main findings relating to the support of Slovenia to its non-resident nationals in the area of social protection.

## 26.2 Diaspora Characteristics and Home Country Engagement

### 26.2.1 *Slovenian Diaspora and Its Relations with the Homeland*

Slovenians have been emigrating from their ethnic territory in substantial numbers ever since the nineteenth century and have thus developed diasporic communities in many countries around the world (Žitnik Serafin et al. 2018). The most substantial emigration of Slovenians prior to World War I was to the United States of America (USA), when Slovenia was still part of the Austro-Hungarian Empire, but emigration to Argentina, Brazil, Egypt, Belgium and the neighbouring ethnic territories of Austria and Croatia was notable as well. It is estimated that around 300,000 Slovenians emigrated during this period, one of the main reasons being to escape poverty and seek greater economic opportunities (Žigon 1993). This means that around 23% of Slovenians decided to leave the homeland, which is a substantial percentage that places the rate of Slovenian emigration at the time on par with the Spanish or Swedish (Massey in Lazarević 2017: 58). The rise of Italian fascism and poverty during the World Wars, when Slovenia was part of the Kingdom of Yugoslavia, encouraged another extensive emigration of Slovenians to the then-rich and prosperous South American state of Argentina. Incidentally, Argentina was also a destination of choice for the opponents of communism and the socialist political system in Yugoslavia that came into place after the Second World War. Emigration of Slovenians from the Socialist Federal Republic of Yugoslavia was mainly directed towards European countries, most notably Germany, Switzerland, Sweden and France (Žigon 1993).

After Slovenia declared independence from Yugoslavia in 1991 and became an independent state for the first time in history, the rate of emigration decreased, but started rising again continuously ever since Slovenia joined the European Union (EU) in 2004 (Valentinčič 2017). According to the Statistical Office of the Republic of Slovenia, 9900 Slovenian citizens emigrated from Slovenia in 2017.<sup>1</sup> Most of them left for Austria (25%), Germany (19%), Switzerland and the United Kingdom. Negative net migration of Slovenian citizens was recorded for the eighteenth

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<sup>1</sup>The population of Slovenia in the last quarter of 2018 was 2,076,595, out of which 1,943,075 were citizens of Slovenia. See: Statistical Office of the Republic of Slovenia (2018). [https://pxweb.stat.si/pxweb/Dialog/varval.asp?ma=05N3210S&ti=&path=../Database/Dem\\_soc/05\\_prebivalstvo/40\\_selitve/20\\_05N32\\_soc\\_ek\\_znac\\_odsel/&lang=2](https://pxweb.stat.si/pxweb/Dialog/varval.asp?ma=05N3210S&ti=&path=../Database/Dem_soc/05_prebivalstvo/40_selitve/20_05N32_soc_ek_znac_odsel/&lang=2). Accessed 12 March, 2019.

consecutive year.<sup>2</sup> In terms of stock, it is estimated that approximately half a million Slovenians currently reside abroad,<sup>3</sup> although only 160,000 are estimated to be holders of Slovenian citizenship.<sup>4</sup> They reside in EU countries, most notably in Germany, Austria and Croatia, but also in Canada, Argentina, Australia and United States of America. More reliable statistical data on Slovenians residing abroad is not available as the Statistical Office of Slovenia does not systematically follow the number of Slovenian citizens abroad and bases its estimations on the data derived from the Central Population Register kept by the Ministry of Interior.<sup>5</sup>

Slovenians have been emigrating at various historical periods for a variety of reasons. As a result, the Slovenian diaspora is widely heterogeneous in terms of gender, socioeconomic status, education, political and religious convictions and willingness to engage with the homeland. Yet, as is often the case with young and small countries that were historically part of large empires or federal states, the imagining of Slovenian diaspora has been mystified, glorified and mythologised (Josipovič 2017) and has tended to ignore this heterogeneity for the purpose of legitimising the joint nationalistic ideal of *Slovenianess* (Skrbiš 2003). In this respect, the nation of origin, according to Valentinčič (2014) occupies an important role in preserving the Slovenian culture in border regions, a principle which is reaffirmed in the highest legal act, the Constitution, in which Slovenia has ‘committed itself to devoting special attention to its national minorities in neighbouring countries as well as to Slovenian emigrants and workers abroad’ (ibid.: 64). In a broader perspective, such constitutional provisions could be read as a reaffirmation of the kin-state position as one of the main features of the democratic transition in Central and Eastern Europe in which post-socialist states assumed special responsibilities for the protection of their co-nationals living beyond nation-state borders (Gazsó 2017).

Following this logic, the Act Regulating Relations between the Republic of Slovenia and Slovenians Abroad,<sup>6</sup> adopted in 2006, states that all Slovenians abroad are an equal part of the unified Slovenian nation and aims at maintaining and developing the Slovenian language and culture, preserving cultural heritage and national identity among Slovenians abroad, as well as facilitating the integration of Slovenians abroad into the social, cultural and political life of Slovenia. The Act

<sup>2</sup>Razpotnik, B. (2018). 1. Januarja 2018 v Sloveniji 2.066.880 prebivalcev ali 985 več kot eno leto prej. <https://www.stat.si/StatWeb/news/Index/7363>. Accessed 5 March 2019.

<sup>3</sup>Government’s Office for Slovenians Abroad. <http://www.uszs.gov.si/en>. Accessed 10 October 2018.

<sup>4</sup>E-mail correspondence with Statistical Office of Slovenia, 12 March 2019.

<sup>5</sup>The Central Population Register contains information on the citizens of Slovenia who are absent from Slovenia for more than 3 months, either permanently or temporarily (Stropnik et al. 2014). Data on emigration flows and stock are derived from data on deregistration of permanent residence and combined with data on resident population.

<sup>6</sup>*Zakon o odnosih Republike Slovenije s Slovenci zunaj njenih meja (Uradni list RS, št. 43/06 in 76/10)*



relates to all Slovenians abroad irrespective of their formal citizenship status<sup>7</sup> and, in addition, introduces a new status of “Slovenian without Slovenian citizenship”. Acquisition of this status primarily depends on descent, activity in Slovenian organisations abroad and active ties with the homeland. The status brings some benefits (preferential enrolment at higher education institutions, equal property rights, access to national funding for scientific research, priority in employment over third country nationals) and is granted by the Government’s Office for Slovenians Abroad<sup>8</sup> (Medved 2013: 17–18). According to the Act, all Slovenians living abroad are considered as part of the unified Slovenian nation, but special attention and corresponding support is given especially to Slovenians residing in the four neighbouring countries (Italy, Austria, Hungary and Croatia), which are considered as autochthonous Slovenians and have the legal status of a national minority.<sup>9</sup> The said support primarily relates to the maintenance of Slovenian language, culture and heritage as it is considered that the Republic of Slovenia and the neighbouring geographical territories occupied by autochthonous Slovenians constitute a joint Slovenian cultural space that should be maintained and strengthened.

### ***26.2.2 Diaspora Infrastructure***

The main institutions mandated to establish, pursue and promote cooperation between Slovenia and Slovenians abroad are the Government’s Office for Slovenians Abroad (chaired by a Minister without portfolio) and the Commission of the National Assembly for Regulating Relations between the Republic of Slovenia and Slovenians abroad. The Government’s Office for Slovenians Abroad is responsible for establishing and maintaining relations between the Republic of Slovenia and the autochthonous Slovenian national minorities in the neighbouring countries, and between the Republic of Slovenia and Slovenians abroad. The Office encourages cultural, economic, scientific networking and provides financial support, by means of public tenders, for programmes and projects relating to the activities of the Slovenian diaspora. The yearly call for proposals is intended for two separate categories of beneficiaries: Slovenians abroad and Slovenian national minorities in the neighbouring countries. Most commonly, funding is approved for clubs, societies,

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<sup>7</sup> Slovenia relatively recently went through the process of determination of citizenship and naturalisation. It adopted the principle of *ius sanguinis* with limited application of *ius soli*, meaning that Slovenian citizenship is acquired by descent and by naturalisation through application. Slovenian emigrants and their descendants are given a privileged and preferential access to Slovenian citizenship.

<sup>8</sup> Government’s Office for Slovenians Abroad. <http://www.uszs.gov.si/en>. Accessed 10 October 2018.

<sup>9</sup> The biggest Slovenian autochthonous national minority is in Italy (70,000–80,000), followed by Austria (20,000–30,000), Croatia (13,500) and Hungary (3000) (Government’s Office for Slovenians Abroad).

associations and other organisations that carry out various activities to promote the maintenance of Slovenian culture and identity. In 2019, successful applicants in the category ‘Slovenians abroad’ received 880,000 EUR in total, while a substantially higher amount of 6,180,000 EUR was awarded to the activities of and/or for ‘Slovenian national minorities’. The Government’s Office for Slovenians Abroad recently also developed several action plans to address, for instance, the cooperation between Slovenian scientists in Slovenia and abroad, cooperation and support to young Slovenians abroad, and economic cooperation between Slovenia and Slovenian national minorities.<sup>10</sup> The effect of these plans is yet to be researched.

Another important institution is the Commission at the National Assembly for Regulating Relations between the Republic of Slovenia and Slovenians abroad, a working group of members of the parliament from different parties, which monitors the implementation of the policy concerning Slovenians abroad and the cooperation of religious communities, civil society organisations and other relevant entities of or with Slovenians abroad. It takes part in policymaking in matters that affect Slovenians abroad and advocates for their interests in drafting and adopting the national budgets of the Republic of Slovenia, co-formulates and proposes programmes of national interest pertaining to concern for Slovenians in neighbouring and other countries, and informs the parliament about concrete problems that Slovenians abroad are faced with – primarily those relating to maintaining Slovenian culture, language and identity.

In addition, two permanent advisory bodies of the Government of the Republic of Slovenia have been set up, both of them being concerned with the Slovenian diaspora: the Council for Slovenians Abroad and the Council for Slovenians in Neighbouring Countries. Both councils are headed by the Prime Minister, who appoints their members (representatives of state agencies, institutions, political organisations and civil society organisations from Slovenia and of Slovenians abroad), proposed to the Prime Minister by their organisations. The Council for Slovenians Abroad consists of four representatives of Slovenians living in European states (including two representatives from the former Yugoslavia); three representatives living in South America (two of them living in Argentina); three representatives of Slovenians living in North America (including two living in the USA and one living in Canada); two representatives of Slovenians living in Australia and one representative of Slovenians living in the countries of other continents. The council is normally in session once a year (Medved 2013, 2014). It has no direct role in social protection policies relating to or relevant for Slovenians abroad.

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<sup>10</sup>The Action Plan on cooperation with the scientists and top experts of Slovenian origin living abroad mentions, among other things, also the encouragement of return of emigrated scientists and professionals. Furthermore, the Action Plan regarding cooperation and support to young Slovenians living in neighbouring countries and abroad promotes exchange of youth from Slovenia and countries of Slovenian emigration in various activities related to, for example, economic life and language learning etc. (Josipovič and Trbanc 2012: 22). Yet there are currently no concrete employment policy measures aimed at integrating returning migrants and their family members into the labour market, an exception being easier access to employment for Slovenians without citizenship.

Outside the geographical territory of Slovenia, direct assistance is provided to Slovenian nationals abroad and persons of Slovenian descent at 40 Slovenian embassies and 108 consulates around the world.<sup>11</sup> The embassies and consulates assist in issuing identity documents (passports, personal identity cards), certificates (birth, marriage, and death), provide assistance with administrative procedures carried out in Slovenia, authenticating documents and handling inheritance-related issues. They help to establish contact with lawyers, translators, health facilities and funeral services. They also facilitate the obtainment of funds for return to Slovenia by contacting family members or friends of a person that wishes to return, but they do not provide financial assistance themselves. Only in matters of extreme urgency, when individuals have no one who could provide them with funds for fundamental necessities and return to the country of residence, they can provide them with a loan. As will be discussed in more detail in the next section, Slovenian representations abroad also assist in cases of repatriation of Slovenians in emergency situations, such political unrests or serious economic crises. The Ministry of Foreign Affairs<sup>12</sup> defines what the crisis situation is and can recommend to the Government of the Republic of Slovenia to back its motion for repatriation. In case the Government confirms the motion, all costs of repatriation are covered from the national budget and do not need to be reimbursed.

Finally, embassies and consulates have the obligation to notify their kin in cases of accident, hospitalisation or death, and upon request get in contact with detained or imprisoned persons. Apart from the embassies and consulates, there is a network of honorary consulates in place that mostly act in the area of culture and economy. Some honorary consuls may have a mandate to act as consular representatives with the mission to provide limited assistance to nationals abroad, but in most cases their role is limited to promotion and networking.

### 26.2.3 Key Engagement Policies

The needs of Slovenians abroad are addressed in the Foreign Affairs Act,<sup>13</sup> the Consular Protection Act,<sup>14</sup> the Act Regulating Relations between the Republic of Slovenia and Slovenians Abroad and the Act Amending the Act Regulating Relations between the Republic of Slovenia and Slovenians Abroad.<sup>15</sup> The first regulates the

<sup>11</sup> Embassy pages. <https://www.embassypages.com/slovenia>. Accessed 20 March 2019.

<sup>12</sup> Ministry of Foreign Affairs of the Republic of Slovenia. <http://www.mzz.gov.si/en/>. Accessed 10 October 2018.

<sup>13</sup> *Zakon o zunanjih zadevah (ZZZ-1-UPB1, Ur. l. RS No. 113/03)*.

<sup>14</sup> *Zakon o konzularni zaščiti (Ur. l. RS, no. 30/18)*.

<sup>15</sup> *Zakon o spremembah in dopolnitvah Zakona o odnosih Republike Slovenije s Slovenci zunaj njenih meja (ZORSSZNM-A, Ur. l. RS, No. 76/10)*.

establishment and functioning of Slovenian embassies and consular services.<sup>16</sup> The second, replacing some of the provisions of the Foreign Affairs Act and adopted on May 2018, regulates the procedures of the Ministry of Foreign Affairs and diplomatic missions abroad regarding the consular protection of citizens of Slovenia and citizens of other countries. The latter two address primarily the maintenance and development of Slovenian language and culture and the preservation of cultural heritage and national identity of Slovenians abroad. The Acts therefore promote mutual ties in the field of culture, care for the Slovenian language, education, science, sports, economy and regional cooperation (Medved 2014). The Acts also address the policy of repatriation and regulate the status of Slovenians without Slovenian citizenship. As previously explained, the acquisition of this status depends on descend, active participation in Slovenian organisations abroad and active ties with the ‘homeland’ (Ibid.).

Slovenian citizens abroad have extensive electoral rights. Franchise in the national elections is extended to all citizens having reached the age of 18, regardless of their current or previous residence in the country, and applies to both active and passive electoral rights. Nationals residing abroad can vote in national legislative and presidential elections, European Parliament elections, as well as the national referendum held in Slovenia. Voting can be done by post or at diplomatic and consular missions. In local elections, by contrast, candidates must be permanent residents of the municipality in which they wish to run, and the local elections also do not allow for casting votes from abroad for those citizens listed in the electoral register who are not resident in Slovenia (Accetto 2013: 3).

The Consular Protection Act defines in more detail the circumstances under which citizens of Slovenia and other countries can receive consular protection. It especially defines procedures in the cases of detention, criminal offences against citizens, serious injury or illness, death, circumstances of crisis<sup>17</sup> and in issuing a passport for return. The Act also defines cases in which financial means can be provided to citizens. This can happen only in cases when the applicant has exhausted all other possibilities to obtain financial means. Financial means can be obtained to cover the most essential costs that are justifiably needed for care and return to the

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<sup>16</sup>According to the Foreign Affairs Act, a consular post performs the following functions (Article 24): 1) Protecting the interests of the Republic of Slovenia, its nationals and legal entities, and discharging other consular and legal tasks; 2) Furthering the development of relations in the fields of the economy, culture, science, and education; 3) Reporting on developments in all areas of life in the consular district and in the receiving state in general; 4) Developing cooperation with the Slovenian national minority and Slovenian emigrants and migrant workers, and promoting the preservation of the Slovenian language and culture among them; 5) Maintaining contacts with the state and local authorities in the consular district; 6) Attending to labour-law protection and social security of nationals of the Republic of Slovenia working in the receiving state. The Law does not further define or specify the role of consulates in attending to social security of nationals of Slovenia.

<sup>17</sup>Crisis situation refers to natural or other disasters of major scope and social/political unrest, such as armed conflict, violence or terrorism, which pose a threat to citizen’s life (The Consular Protection Act, Article 2).

country of residence, especially travel expenses and expenses of urgent accommodation and care. The costs have to be reimbursed in all cases.

As regards repatriation, the process is regulated in the Act Regulating Relations between the Republic of Slovenia and Slovenians Abroad, which foresees the possibility of repatriation of Slovenians who live in countries where serious economic or political crisis situations have occurred or for Slovenians who can significantly contribute to the development of Slovenia. What constitutes a crisis situation is determined by the Slovenian Ministry of Foreign Affairs. The eligibility of a person for repatriation is also based on the opinions and proposals of the Slovenian diplomatic and consular representations, Slovenian expatriate organizations in Slovenia and abroad and Slovenian Roman Catholic missions or missions of other religious communities. Potential repatriates must not have been sentenced to imprisonment exceeding 1 year for a criminal offence, for which the offender is prosecuted *ex officio*. If granted the status, repatriation costs are covered by the Republic of Slovenia. The repatriation status is granted for a maximum of 15 months and includes free of charge healthcare and language classes. Basic social support is provided, if required, and is means-tested in accordance with the established social security schemes.<sup>18</sup>

Other policies of engagement with Slovenian nationals abroad are limited in scope and focus primarily on establishing business ties, promoting Slovenian language, culture and national heritage, promoting scientific networking and offering grants to Slovenians abroad by means of public tender. The Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia<sup>19</sup> based on the provisions of the Scholarship Act<sup>20</sup> offers scholarships to Slovenians from neighbouring countries and Slovenians abroad to study in Slovenia. The call for applications is published every year during the summer months. The applicants must be Slovenians (with or without citizenship) with permanent residence outside the Republic of Slovenia. They must have been enrolled in a first or second-cycle accredited higher education programme before the age of 27. This scholarship can be awarded only once – for either first or second-cycle programme. The projects financed by the Government's Office for Slovenians abroad do not target any specific activities in the field of social protection. Instead, they rather focus on activities such as the maintenance of national, linguistic and cultural identity of Slovenians abroad, mutual connections among the community and the strengthening of its connections to Republic of Slovenia, the maintenance of structures and activities of

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<sup>18</sup>The first larger scale repatriation process commenced in 2019, when a number of persons of Slovenian descent residing in Venezuela applied for repatriation due to the economic and political crisis. The Government's Office for Slovenians Abroad took over the coordination and implementation of an action plan that outlines the procedures for status determination, transportation from Venezuela to Slovenia and exercise of rights of repatriated persons. The evaluation of the process remains a task for future research.

<sup>19</sup>Public Scholarship, Development, Disability and Maintenance Fund of the Republic of Slovenia. <http://www.sklad-kadri.si/en/>. Accessed 22 October 2018.

<sup>20</sup>*Zakon o štipendiranju, Uradni list RS, no. 56/13, 99/13 – ZUPJS-C, 8/16, 61/17 – ZUPŠ in 31/18.*

Slovenians abroad and establishing connections in the area of youth, economy, science and education. Lastly, it is to be noted that there are no specific policies relating to remittances or housing.

### 26.3 Diaspora Policies and Social Protection in Slovenia

For Slovenians abroad, social security rights and their portability are primarily ensured within the framework of the EU's social security coordination system. In addition, there are some bilateral agreements in place with third countries that do not fall under the scope of uniform European regulations on social security. These agreements were concluded with countries that have been linked to Slovenia in terms of significant population movements and a common historical experience. They include the former Yugoslavian republics of Serbia, Montenegro, North Macedonia and Bosnia and Herzegovina, as well as historically attractive destination countries for Slovenians such as Argentina, Canada, Australia and United States of America. The latest bilateral social security agreement was signed with the United States of America in January 2017 and it came into force in February 2019. Similar to other agreements, this one also provides for coordination between the contracting parties to eliminate dual social security coverage and taxation and to help prevent the loss of benefit protection because of migration.<sup>21</sup>

Beyond bilateral agreements on social security, Slovenia is not actively involved in its expatriates' access to social protection and investment in social welfare of its diaspora remains limited in many respects. This is manifested not only in the lack of targeted programmes or schemes across the main social protection areas, including unemployment, health, pensions, family-related benefits and economic hardship, but also in the absence of a comprehensive communication strategy that would facilitate information-sharing about access to social protection in the homeland and the country of residence. Consulates may provide this information on request, but their assistance in most cases is limited to referring individuals to relevant websites and handing out material containing informative content.<sup>22</sup> In this section, we

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<sup>21</sup> The agreement is similar in objective and content to the agreements that the United States already signed with many other European countries, Australia, Canada, Chile, Japan, Norway, the Republic of Korea, and Switzerland (Presidential message to the congress of the United States. <https://www.whitehouse.gov/briefings-statements/presidential-message-congress-united-states-10/>. Accessed 12 March 2019).

<sup>22</sup> It is interesting to note that the Slovenian Foreign Affairs Act that regulated consular matters before the adoption of the Consular Protection Act did not contain the wording 'the right to consular protection', but they do state that the consulate shall, among other functions, ensure protection of Slovenian citizens abroad. The term 'ensure' could be understood as "stipulating some level of obligation on the part of Slovenia which could be interpreted as establishing, as its counter-part, a right of individuals to request such protection" (CARE 2010: 453-454). There are also no formal mechanisms or procedures in force for the exercise of consular protection. The person in need establishes contact with the competent representation in a foreign country which then provides the

provide an overview of the findings regarding policies that facilitate access to social protection of Slovenian nationals abroad and argue that apart from concluding bilateral social security agreements, limited effort has been done to reduce their exposure to social risks.

### **26.3.1 Unemployment**

Employment of Slovenian nationals abroad is an issue that has in the past years attracted quite significant attention not only of relevant public institutions, such as employment services and adult education centres, but also of private employment and language agencies that offer individuals who wish to take up a job abroad access to a variety of programmes, notably language training. These programmes target people who have not yet left the country but intend to do so. In this respect, German language courses that are to prepare individuals for working in a German-speaking country predominate. Some of these programmes also include wider information on, for example, how to prepare for the labour market, but in general, information is focused more on building professional skills (e.g. writing a CV) than on providing more extensive information about everyday life in German-speaking countries. Some of these courses are available with a cost (although often on a subsidised basis), while some, for instance at Employment Services, are available upon previous arrangement with the employment counsellors. Apart from the EURES-related activities that are well established and developed in Slovenia, other sources of information regarding employment abroad remain limited. The engagement of public institutions in this field is limited and although some activities are organised at a more local level (e.g. near the Austrian border and/or in regions where there is greater demand for such services – e.g. East Slovenia), public institutions do not have specific local practices in this regard.

Regarding access to unemployment benefits while living abroad, a national permanently residing abroad is not entitled to any unemployment benefits in Slovenia and portability of unemployment benefits for Slovenians moving within the EU is regulated like in other Member States via EU legislation relating to this matter.

No specific policies are in place for nationals found in situations of unemployment abroad and there is no specific information that consulates provide to help individuals find jobs abroad. Concerning the provision of cash benefits to individuals that have been found in situations of unemployment abroad, the Consular Protection Act does not list unemployment among the reasons for obtaining such assistance. However, it is to be noted that bilateral social security agreements with republics of the former Yugoslavia, such as Bosnia and Herzegovina, Montenegro,

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necessary consular assistance (Ibid.). The Consular Protection Act follows a similar logic, resting on the assumption that a national and/or their family members establish contact with a relevant diplomatic representation that then acts within its competence and if needed.

North Macedonia and Serbia do take periods of employment in both countries into account when determining eligibility and access to unemployment benefits.

### 26.3.2 *Health Care*

Regarding access to health care, Slovenian citizens residing in another EU Member State fall under the EU legislation in this matter. Overall, however, consular involvement in this area is very limited. The Consular Protection Act stipulates that in cases of serious illness or accidents, consulates inform the relevant authorities in the EU countries and in Slovenia; if needed, they communicate with the person affected and the relevant authorities, assist in arranging such communication, and provide assistance in repatriation, if asked. According to the Consular Protection Act, in cases of extreme emergency, the Ministry of Foreign Affairs may provide Slovenian citizens with a financial advance. Being unable to access funds for fundamental necessities and return to the country of residence is mentioned in the Act as such reasons. Such means include travel costs and costs for urgent accommodation and care. However, the financial means must be repaid to the diplomatic mission in full. The 2010 CARE report (CARE 2010) shows that in cases of serious accident or serious illness, Slovenian authorities give necessary assistance mostly through their role as a coordinator, which is reflected also in the 2018 Consular Protection Act.

The exercise of health-related rights during temporary residence abroad is regulated by the EU legislation, as well as by bilateral social security agreements that in the case of health apply to Australia, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia. An insured individual that permanently settles abroad also has the right to health services in accordance with the EU legislation and bilateral social security agreements. While residing in the countries of the EU, the European Economic Area (EEA), Switzerland, Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia (the bilateral social security agreement with Australia does not regulate rights during permanent residence), he/she is entitled to health services in the scope that these countries guarantee to their insurers. This right can be exercised on the basis of a certificate issued by the Health Insurance Institute of Slovenia,<sup>23</sup> which then sends this certificate to the competent authority in the country of permanent residence.

With regards to invalidity benefits, the Health and Invalidity Insurance Act<sup>24</sup> states that a person permanently residing abroad is not entitled to a care allowance, meant for the coverage of costs incurred due to permanent changes in one's health condition, that do not enable a person to satisfy his/her basic needs and thus urgently and necessarily require the assistance of others.

<sup>23</sup> Health Insurance Institute of Slovenia. [www.zzzs.si/indexeng.html](http://www.zzzs.si/indexeng.html). Accessed 10 October 2018.

<sup>24</sup> *Zakon o pokojninskem in invalidskem zavarovanju (ZPIZ-2, Uradni list RS no. 96/12, 39/13, 99/13)*



### 26.3.3 Pensions

Consular intervention in case of pensions is limited to the provision of Life certificates. According to the Pension and Disability Insurance Act,<sup>25</sup> the beneficiaries of pension and disability benefits residing abroad are obliged to submit Life certificates certified by the competent state or administrative authority or a foreign pension institute once a year. The Life certificate is sent by post to beneficiaries residing abroad and for whom information cannot be obtained from the competent pension institutes by way of electronic data exchange. It should be completed by a beneficiary and certified by the competent state or administrative authority.

The information about pensions can be obtained from the official website of the Pension and Disability Insurance Institute of Slovenia (ZPIZ),<sup>26</sup> which is the national provider and implementer of the Slovenian pension and disability insurance. The website provides information in four languages: Slovenian, Italian, Hungarian and English. All beneficiaries, regardless of their place of residency, can obtain information via email, phone or by appointment. There is no special department or a specifically trained information officer at ZPIZ that would provide information exclusively to Slovenian nationals abroad. However, in the past 2 years, ZPIZ sent all beneficiaries residing abroad a formal letter containing information about the transfer of annual bonuses, which were to be paid out to all beneficiaries, as well as a reminder of their responsibility to continue sending Life certificates on an annual basis. In October 2018, ZPIZ transferred pensions to 80,745 beneficiaries residing abroad. Most beneficiaries resided in Croatia (26,310), Bosnia and Herzegovina (21,815), Serbia (11,833), Germany (10,255), Austria (3156), North Macedonia (1655) and Australia (1455).<sup>27</sup> Accumulation of pension rights between these countries and Slovenia is ensured either by the EU legislation on the coordination of social security systems or bilateral social security agreements concluded with third countries.

The bilateral agreement that was recently concluded between Slovenia and the United States of America also significantly eases portability of pension rights. According to the Government's Office for Slovenians abroad, this agreement is especially beneficial because it ensures that pensions will no longer be paid out by the United States after 10 years of working in the country, but after only 18 months, which might in their view significantly encourage return migration. The population of particular concern in regard to this provision are young researchers and scientists who have been increasingly emigrating to the United States to acquire new knowledge and experience and would wish to return to Slovenia afterwards.

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<sup>25</sup> Pension and Disability Insurance Act, ZPIZ-2, Ur. l. RS No. 96/12, 39/13, 99/13

<sup>26</sup> Pension and Disability Insurance Institute of Slovenia (ZPIZ). <https://www.zpiz.si/cms/?ids=zpiZen>. Accessed 15 November 2018.

<sup>27</sup> E-mail correspondence with ZPIZ, November 7, 2018. This statistical data does not provide information on the nationality of each beneficiary.

### 26.3.4 *Family-Related Benefits*

Looking at the role of consulates, according to the Law on First Name<sup>28</sup> and the Civil Register Act,<sup>29</sup> depending on whether parents are married (if this is not the case, acknowledgement of fatherhood must be arranged), and whether they have Slovenian citizenship (if both do, it can be arranged by post also), birth certificates can be obtained through the relevant diplomatic missions.

With regard to benefits, the Parental Protection and Family Benefits Act<sup>30</sup> stipulates that one time birth benefits can only be claimed if at least one of the parents has permanent residence in Slovenia and actually lives in Slovenia and does not mention the residence of the child. In practice, such a benefit is also accessible to split families. The benefit must be claimed up to 60 days before the expected date of birth or at least 60 days after the date of birth. No specific consular protection measures in accessing these measures were identified in this regard. The Act also stipulates that individuals who are sent to work abroad and are not insured in their new country of residence and/or individuals that work abroad but their employers remain under the jurisdiction of Slovenian legislation can exercise rights related to parental/maternity/paternity leaves. Bilateral social security agreements concluded with Bosnia and Herzegovina, Montenegro, North Macedonia and Serbia mention the portability of the right to maternity leave when beneficiaries move abroad. Parental leaves are regulated in the bilateral social security agreements with Bosnia and Herzegovina, Montenegro and Serbia, while paternity leaves are not regulated by bilateral social security agreements.

The Exercise of Rights from Public Funds Act<sup>31</sup> defines the beneficiaries of a child benefit, which is a means-tested complementary income for a child's subsistence, upbringing, and education. According to the Act, one of the parents or another person shall be granted the right to child benefit for a child with a registered residence in the Republic of Slovenia who actually resides in the Republic of Slovenia. The consulates therefore have no specific role in assisting to obtain this, or any other existing family allowance (i.e. childbirth allowance, large family allowance, child care allowance and partial payment for loss of earnings). No specific measures and/or benefits aimed at individuals residing abroad with regard to accessing/claiming other family benefits are in place.

The one concrete example of a specific scheme for Slovenians abroad is the scheme for Slovenians abroad and from the neighbouring countries. According to the Scholarship Act, the Public Scholarship, Development, Disability and

<sup>28</sup> *Zakon o osebnem imenu (Uradni list RS, no. 20/06, 43/19)*

<sup>29</sup> *Zakon o matičnem registru (Uradni list RS, no. 11/11, 67/19)*

<sup>30</sup> *Zakon o starševskem varstvu in družinskih prejemkih (Uradni list RS, no. 26/14, 90/15, 75/17, 81/19 – ZUPJS-G and 14/18)*

<sup>31</sup> *Zakon o uveljavljanju pravic iz javnih sredstev (Uradni list RS, no. 62/10, 40/11, 40/12 – ZUJF, 57/12 – ZPCP-2D, 14/13, 56/13 – ZŠtip-1, 99/13, 14/15 – ZUJFO, 57/15, 90/15, 38/16 – odl. US, 51/16 – odl. US, 88/16, 61/17 – ZUPŠ, 75/17, 77/18, 47/19).*

Maintenance Fund of the Republic of Slovenia offers scholarships to Slovenians from neighbouring countries and Slovenians abroad to study in Slovenia. Since the 2014/2015 academic year, the award of scholarship has been subject to the provisions of the new Scholarship Act. The call for applications is published every year during the summer months. Candidates must have been enrolled in a first or second-cycle accredited higher education programme before the age of 27. This scholarship can be awarded only once – for either first or second-cycle programme. The eligibility criteria are determined by the Scholarship act and are listed in each public call for applications, which is published every year during the summer months. The applicants must be Slovenians (with or without citizenship, as explained above) with permanent residence outside the Republic of Slovenia, which extensively narrows the scope of eligible individuals.

### **26.3.5 *Economic Hardship***

There are no specific policies in place by which consulates would assist nationals residing abroad to access the guaranteed minimum resource schemes. Financial social assistance in Slovenia is means-tested and granted under very strict rules in the situations of economic hardship to Slovenian nationals with permanent residence in the Republic of Slovenia, or nationals of other EU Member States under specific conditions. However, as stated above, in matters of extreme urgency, when Slovenian citizens have no one who could provide them with funds for fundamental necessities and return to the country of residence, the consulates can be instructed to provide them with a loan that must be repaid in full.

## **26.4 Conclusions**

Nation-state formation after the declaration of Slovenia's independence from the Socialist Federal Republic of Yugoslavia in 1991 was marked by nationalistic efforts to substantiate ethnic identity of Slovenians in the newly established state and its diaspora. Preserving and strengthening Slovenian identity, heritage, language and culture in diasporic communities have been one of the strategic priorities of newly established governmental bodies dealing with diaspora-related issues. Special attention and corresponding political and financial support has been attributed to Slovenian national minorities residing in the neighbouring countries, which are considered to be part of the joint Slovenian cultural space.

Less so has Slovenia been active in developing policies, programmes and tools to reduce exposure to social risks of its nationals abroad. Beyond the EU rules and obligations concerning social security coordination between Member States and bilateral agreements concluded with former Yugoslavian republics and historically significant destination countries for Slovenians, little is offered to its nationals

abroad. Entitlement to social security benefits is in most cases means-tested, based on residence and social security contributions, and is inextricably linked to an individual's employment status in Slovenia. In the absence of specific policies for nationals abroad, the role of consulates is therefore in most cases limited to information-sharing about national social security systems and regulations in place. Some exceptions do exist, such as loaning financial means to Slovenian citizens in cases of extreme urgency for return to the country of residence, and repatriation schemes that may cover the costs of travel to Slovenia, healthcare and language classes for a maximum of 15 months, if the status is granted. But overall, in line with the kin-state model of the nation as a characteristic feature of the post-socialist nation-building process, diaspora engagement policies focus primarily on the maintenance of cultural, business and scientific ties with the state of Slovenia, while less attention is devoted to the development and implementation of social protection policies for its nationals residing abroad.

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# Chapter 27

## Diaspora Policies, Consular Services and Social Protection for Spanish Citizens Abroad



Pau Palop-García

### 27.1 Diaspora Policy Infrastructure and Key Policies

This chapter examines the social protection services offered by Spain to its nationals abroad. Following the framework of this volume, the chapter outlines first the key engagement policies and diaspora infrastructure established by Spain. Secondly, the chapter focuses on five core social protection policies: unemployment, health care, pensions, family-related benefits, and economic hardship. Although the chapter relies mainly on primary sources (international treaties, laws and regulations), secondary sources are used to complement and clarify the findings. The information included in the chapter reflects the policies in force as of January 2019.

#### 27.1.1 *The Spanish Emigrant Community and Its Relations with the Homeland*

Based on the official statistics provided by the Spanish residence registry (*Padrón de españoles residentes en el extranjero*, PERE), a total of 2,482,808 Spanish citizens were permanently residing abroad at the beginning of 2018.<sup>1</sup> This number is the result of more than one century of emigration that has led to a diverse diaspora made up by differentiated groups. Among others, the descendants of the Spanish

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<sup>1</sup>INE (2018). *Estadística del Padrón de Españoles Residentes en el Extranjero (PERE) a 1 de enero de 2018*. [https://www.ine.es/prensa/pere\\_2018.pdf](https://www.ine.es/prensa/pere_2018.pdf). Accessed 4 March 2019. This figure is based on voluntary registrations in Spanish consulates.

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exiles of the Civil War and early Francoism which have retained Spanish nationality (Pasetti 2017), Spaniards who emigrated mostly to other countries in Europe during the 1950s and 1960s seeking higher standards of living (Kreienbrink 2009; Sánchez Alonso 2010) and new emigrants that moved abroad in the aftermath of the financial crisis of 2008 (Parella and Petroff 2014; Domingo and Blanes 2015).<sup>2</sup> This great variation regarding the origins and drivers of the Spanish emigration correlates also with the existence of considerable groups of emigrants in both sides of the Atlantic.<sup>3</sup>

This diversity in terms of emigrants' profiles and their respective destination countries has prompted Spain to develop an emigrant policy strategy that aims at addressing the different needs of non-resident Spaniards. This is indeed shown in the ample amalgam of services that Spain offers to its citizens abroad, ranking from pensions to elderly that lack support in their host country, to programs aiming to help Spaniards abroad integrate in the labor market of their country of residence. The next sections of the chapter describe in detail the diaspora infrastructure and the key engagement policies developed by Spain.

### 27.1.2 *Diaspora Infrastructure*

The core of the Spanish diaspora infrastructure is embedded within two ministerial departments. First, within the Ministry of Foreign Affairs, European Union and Cooperation (*Ministerio de Asuntos Exteriores Unión Europea y Cooperación*), the Directorate General for Spaniards Abroad and Consular and Migratory Affairs (*Dirección General de Españoles en el Exterior y de Asuntos Consulares y Migratorios*) is in charge of the protection of Spanish nationals abroad, including the management of emergency situations that involve Spanish emigrants and the supervision of consular services.<sup>4</sup> Second, within the Ministry of Employment, Migrations and Social Security (*Ministerio de Trabajo, Migraciones y Seguridad Social*), the State Secretary for Migration (*Secretaría de Estado de Migraciones*) is

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<sup>2</sup>This last emigration wave consisted mostly of migrants who naturalised in Spain and returned to their origin countries (mainly in Latin America) and young generations that emigrated looking for better working conditions in other European countries (Parella and Petroff 2014; Domingo and Blanes 2015).

<sup>3</sup>For instance, the five countries hosting the highest number of Spaniards in 2018 were Argentina, France, Venezuela, Germany and Mexico (INE 2018).

<sup>4</sup>*Real Decreto 768/2017, de 28 de julio, por el que se desarrolla la estructura orgánica básica del Ministerio de Asuntos Exteriores y de Cooperación y se modifica el Real Decreto 424/2016, de 11 de noviembre, por el que se establece la estructura orgánica básica de los departamentos ministeriales* [Royal Decree 768/2017, of 28 July, developing the basic organisational structure of the Ministry of Foreign Affairs and Cooperation and amending Royal Decree 424/2016, of 11 November, establishing the basic organisational structure of the ministerial departments]. 2017. *Boletín Oficial del Estado*, No 180, p. 70365.

in charge of developing policies on immigration, immigrant integration, and emigration policy.<sup>5</sup>

Spain has an extensive consular network composed of 179 consular missions distributed in 96 countries (including consular sections in Spanish embassies) and honorary consulates.<sup>6</sup> Interestingly, as opposed to other countries with an extensive consular network (e.g. Germany), Spain does not have a law on consular protection (Faro and Moraru 2010, p. 464), but rather a series of regulations that define the contours of the services that consular missions ought to provide to Spaniards abroad. Honorary consulates are regulated by the Royal Decree 1390/2007. As this Decree explicitly recognizes, honorary consulates are modeled on the Vienna Convention of 1963. Their general role is to assist and act as delegates of the diplomatic official to whom they report. Honorary consulates need explicit authorization from the Consul that they represent to exercise their competences. Their tasks include, but are not limited to, the legalization of signatures on public documents, the facilitation of the registration in the Spanish Register of Nationals Abroad and the processing of applications for passports.<sup>7</sup>

Spain has also created emigrant consultative bodies. The consultation is allocated at two levels: at the consulate level through the Councils of Spanish Residents Abroad (*Consejos de Residentes Españoles en el Extranjero*) and at a national level with the General Council of Spanish Citizens Abroad (*Consejo General de la Ciudadanía Española en el Exterior*). The Councils of Spanish Residents Abroad have as their main function to advise the director of the consular mission on issues that concern the Spanish community residing in the consular demarcation. However, the consul does not have to consult the Councils prior to taking his/her decisions. The Councils are made up of 7, 11, or 15 members, depending on the size of the Spanish community residing in the consular demarcation. The members are directly elected for a period of 4 years by Spanish citizens officially registered as residents in the consular demarcation, and meetings are held in assemblies in the consular demarcation.<sup>8</sup> The General Council of Spanish Citizens Abroad was established by

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<sup>5</sup> *Real Decreto 355/2018, de 6 de junio, por el que se reestructuran los departamentos ministeriales* [Royal Decree 355/2018, of 6 June, restructuring ministerial departments]. 2018. *Boletín Oficial del Estado*, No 138, p. 58722.

<sup>6</sup> Ministry of Foreign Affairs and Cooperation (2018). *Embajadas y consulados*. <http://www.exteriores.gob.es/Portal/es/ServiciosAlCiudadano/Paginas/EmbajadasConsulados.aspx>. Accessed 9 May 2018. Spain does not have mobile consulates.

<sup>7</sup> See: *Real Decreto 1390/2007, de 29 de octubre, por el que se aprueba el Reglamento de los Agentes Consulares Honorarios de España en el extranjero* [Royal Decree 1390/2007, of 29 October, approving the Regulations for Honorary Consular Agents of Spain abroad]. *Boletín Oficial del Estado*, No 272, p. 46378.

<sup>8</sup> Art. 9, 12 and 13 of *Ley 40/2006, de 14 de diciembre, del Estatuto de la ciudadanía española en el exterior* [Law 40/2006 of the Statute of Spanish Citizenship Abroad]. 2006. *Boletín Oficial del Estado*, No 299, p. 44156 and *Real Decreto 1960/2009, de 18 de diciembre, por el que se regulan los Consejos de Residentes Españoles en el Extranjero* [Royal Decree 1960/2009, of 18 December, regulating the Councils of Spanish Residents Abroad]. 2009. *Boletín Oficial del Estado*, No 2, p. 137.



Law 40/2006. It is placed at the national level and consults directly with the Government on issues that affect Spanish residents abroad. It can request studies, make proposals and recommendations, and must be informed in advance about legislation that will affect the civil rights, labor rights, social protection, education, and culture of Spanish nationals abroad. However, their recommendations are not legally binding. The Council is composed of one president (appointed by Minister and ratified by the majority of the Council), two vice-presidents (representatives of different offices of the Ministry), one secretary (Director General of Emigration Affairs), and up to 43 Council members elected by the Councils of Spanish Residents Abroad. The Council meets in assembly at least once a year (the president can call for extraordinary meetings) and in specific committees.<sup>9</sup>

Interestingly, most of the mainstream Spanish parties include nationals abroad within their organic structure. The People's Party (*Partido Popular*) has a representative of emigrants in its executive, the Socialist Party (*Partido Socialista Obrero Español*) has a Secretary of Emigration, and members of the leftist party PODEMOS that reside abroad constitute a formal territory, with the same representation at the federal level as the members of other Spanish regions. In addition, PODEMOS has a representative of emigrants that participates in the area of Foreign Affairs, Cooperation, and Return (*Área de Exteriores, Cooperación y Retorno*), which reports to the Secretary of International Affairs (*Secretaría Internacional*).

At the sub-national level, regional Governments tend to focus on immigration issues, rather than engagement policies. This is reflected also in their infrastructure, since most of them only have administration units dedicated to the integration of immigrants and only some Autonomous Communities (*Comunidades Autónomas*) have a specific department for emigrant issues (see, for instance, the Secretary of emigration of the Galician Government or the Directorate General for Emigration and Development Cooperation in Asturias).

### 27.1.3 Key Engagement Policies

The Spanish emigrant policy strategy has been described as horizontal, as there is not a catch-all legal text that regulates all aspects of emigrant policy, but rather a set of laws, royal decrees, and administrative orders enacted over the last 30 years that add up to a quite comprehensive regulation of the relationship between the Spanish state and its nationals abroad (Pasetti 2017). Nevertheless, despite the abundance of regulations, it is still possible to identify the cornerstones of the Spanish diaspora engagement strategy. The Spanish Constitution, for instance, establishes that the state "... shall pay particular attention to safeguarding the economic and social

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<sup>9</sup>Information presented in this section on the General Council of Spanish Citizens Abroad is based on Art. 11–16 of *Real Decreto 230/2008, de 15 de febrero, por el que se regula el Consejo General de la Ciudadanía Española en el Exterior* [Royal Decree 230/2008, of 15 February, regulating the General Council of Spanish Citizens Abroad]. 2008. *Boletín Oficial del Estado*, No 41, p. 8734.

rights of Spanish workers abroad and shall direct its policy towards their return".<sup>10</sup> This constitutional mandate is then reflected in relevant posterior regulations such as Law 40/2006 of the Statute of Spanish Citizenship Abroad, the Royal Decree 1493/2007 regulating the aid granted to meet the extraordinary needs of Spanish returnees<sup>11</sup> or Law 2/2014 on State Action and Foreign Service.

Based on Art. 2 of the Royal Decree 3425/2000, Spaniards abroad must register in the Consular Register (*Registro de Matrícula Consular*).<sup>12</sup> Nonetheless, not complying with this obligation does not impair the right to consular protection that corresponds to all Spaniards abroad. To register, it is necessary to visit personally the consular office, show proof of residence abroad, proof of identity and Spanish nationality, fill out a form, and provide a photo. Once the registration has been completed, the applicant loses his/her residence in Spain and officially becomes a resident abroad. Registration as residents abroad limits the access to some social policies in Spain such as unemployment benefits or guaranteed minimum resources. Although registration is mandatory, it is common that Spanish emigrants only register when it becomes necessary for accessing consular services such as the renewal of a passport or voting from abroad in homeland elections. The registration is conducted by the Consular Office in coordination with the National Statistics Institute.<sup>13</sup> Moreover, Spanish nationals abroad can renew and apply for a Spanish passport. The passport must be requested in person at the consular office. Diplomatic and consular missions are competent to issue passports in coordination with the Ministry of Interior.<sup>14</sup> However, the National Identification Document (*Documento Nacional de Identidad*, DNI), the most common identification document used in Spain, can only be renewed or issued in Spain. To do so, Spanish nationals abroad must have a certificate issued by the Consular Civil Registry that shows proof of their residence abroad. With this certificate, the applicant has to travel back to Spain and appear before the National Police Force, the office in charge of issuing the document.

Spanish nationals abroad can vote in national and regional elections (including elections for national upper and lower houses, regional legislative chambers, and

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<sup>10</sup>Art. 42 *Constitución Española* [Spanish Constitution]. 1978. *Boletín Oficial del Estado*, No 311, p. 29313.

<sup>11</sup>*Real Decreto 1493/2007, de 12 de noviembre, por el que se aprueban las normas reguladoras de la concesión directa de ayudas destinadas a atender las situaciones de extraordinaria necesidad de los españoles retornados* [Royal Decree 1493/2007, of 12 November, approving the rules governing the aid to attend the extraordinary needs of Spanish returnees]. 2007. *Boletín Oficial del Estado*, No 283, p. 48331 and Law 40/2006.

<sup>12</sup>Art. 2–3. *Real Decreto 3425/2000 de 15 de diciembre, sobre inscripción de los españoles en los Registros de Matrícula de las Oficinas Consulares en el extranjero* [Royal Decree 3425/2000, of December 15, on the registration of Spaniards in the Consular Registry]. 2000. *Boletín Oficial del Estado*, No 3, p. 152.

<sup>13</sup>Ministry of Foreign Affairs and Cooperation (2018b). *Otros servicios consulares*. <http://www.exteriores.gob.es/Portal/es/ServiciosAlCiudadano/SiEstasEnElExtranjero/Paginas/OtrosServiciosConsulares.aspx>. Accessed 9 May 2018.

<sup>14</sup>Ministry of Interior (2018). *Procedimiento de expedición. Servicios al Ciudadano*. <http://www.interior.gob.es/web/servicios-al-ciudadano/procedimiento-de-expedicion>. Accessed 9 May 2018.

national and regional referendums), as well as European Parliament elections held in Spain.<sup>15</sup> To be eligible, nationals abroad must be 18 years old and be registered in the electoral roll of external voters. The registration in the electoral roll is automatic (it is done with the registration as a resident abroad). However, nationals abroad must apply each election cycle in order to cast their ballot. This extra bureaucratic step was introduced in 2011 and has fostered many protests from non-resident Spaniards who claimed that this measure is limiting their right to vote.<sup>16</sup> External voters can cast the ballot in person in consulates, or make use of postal voting. Representation is assimilated, external votes are counted as part of the in-country electoral district where the external voter lived before emigration or in that with which he/she has a biographical connection. Moreover, Spanish nationals abroad can run as candidates if they are included in a list proposed by a party in one of the electoral districts into which Spain (or the given region) is divided.

Overall, Spain does not seem to focus on economic emigrant policies beyond taxation agreements meant to avoid double taxation and a limited return scheme that includes subsidiary provisions to aid returnees in a situation of extraordinary necessity.<sup>17</sup>

Some of the diaspora engagement policies adopted by Spain also fall under the realm of cultural and education policies.<sup>18</sup> Spain has created the Classes of Spanish Language and Culture (*Aulas de Lengua y Cultura Españolas*), a program aiming to help the children of Spanish emigrants to maintain and develop their Spanish language skills, as well as to teach the Spanish culture.<sup>19</sup> The courses are organized by the Ministry of Education, but taught abroad. The curriculum is taught over 10 years, from ages 7–8 to ages 16–17. The Ministry of Education is in charge of deciding in which cities the courses will be offered. Since 1993, the Ministry also has a network of centers abroad that offer primary and secondary studies according to the Spanish

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<sup>15</sup>For electoral regulations applicable to Spaniards abroad, see: *Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General* [Organic Law 5/1985, of 19 June, on the General Electoral System]. 1985. *Boletín Oficial del Estado*, No 147, p. 19110.

<sup>16</sup>See, for instance: Marea Granate (2016). *Marea Granate envía al Congreso sus propuestas para la reforma exprés de la LOREG*. <http://mareagranate.org/2016/10/marea-granate-envia-al-congreso-propuestas-la-reforma-expres-la-loreg/>. Accessed 9 May 2018

<sup>17</sup>Royal Decree 1493/2007.

<sup>18</sup>The Cervantes Institutes (*Institutos Cervantes*), created in 1991 to promote the use of Spanish as a second language around the world, do not incorporate within their goals the promotion of Spanish culture among nationals abroad.

<sup>19</sup>Law 40/2006; *Orden EDU/3122/2010, de 23 de noviembre, por la que se regulan las enseñanzas complementarias de Lengua y Cultura españolas para alumnos españoles residentes en el exterior y se establece el currículo de las mismas* [Order EDU/3122/2010, of 23 November, which regulates the complementary teaching of Spanish Language and Culture for Spanish students living abroad and establishes their curricula]. 2010. *Boletín Oficial del Estado*, No 292, p. 100227; *Real Decreto 1027/1993, de 25 de junio, por el que se regula la acción educativa en el exterior* [Royal Decree 1027/1993, of 25 June, regulating educational activities abroad]. 1993. *Boletín Oficial del Estado*, No 187, p. 23941.

educative curriculum (Pasetti 2017).<sup>20</sup> Regarding education policies, although there is not a general framework of public-funded scholarships, Spaniards residing in certain countries (France, Germany, Italy, UK, Peru, etc.) can study in the National Distance Education University (UNED), the biggest public university in Spain by number of students, and take their exams abroad.<sup>21</sup>

Furthermore, there is a grant framework that targets Spanish nationals abroad. It consists of six action programs, including two that explicitly aim at assisting associations of emigrants to cover their operating costs, as well as the eventual renovation of their headquarters<sup>22</sup>, and one that aims at funding initiatives aimed at promoting the social and labor integration of young Spaniards living abroad through actions such as language training.<sup>23</sup>

The Order AEX/1059/2002<sup>24</sup> issued by the Minister of Foreign Affairs provides the framework for consular protection and assistance (Faro and Moraru 2010). The framework includes several aid modalities: repatriations, evacuations, subsistence, allowances in cases of extraordinary emergency, allowances for Spaniards incarcerated abroad, allowances for legal aid, and allowances for burial and cremation. With some exceptions, all the aid provided under this framework is reimbursable. It should be noted that the framework does not include financial assistance to facilitate the repatriation of bodies of nationals deceased abroad, only for the burial or cremation in the state where the person died. Nevertheless, according to the website of the Ministry of Foreign Affairs, Spanish consulates do offer logistical assistance in cases of body repatriations (contact with local authorities, information about the process, etc.).

Spanish regions have not developed full-fledged diaspora engagement policies. By the time of writing this chapter, only some, such as Catalonia, Castilla-La

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<sup>20</sup>There are two types of programs under this scheme: centers that follow the Spanish curriculum and those that mix the Spanish curriculum with the curriculum of the country where they are located. For more information: <https://www.mecd.gob.es/servicios-al-ciudadano-mecd/estadisticas/educacion/exterior/accion.html>. Accessed 9 May 2018.

<sup>21</sup>UNED(2018). UNED: Facts and Data. [http://portal.uned.es/portal/page?\\_pageid=93,24305391&\\_dad=portal&\\_schema=PORTAL](http://portal.uned.es/portal/page?_pageid=93,24305391&_dad=portal&_schema=PORTAL). Accessed 9 May 2018.

<sup>22</sup>*Orden ESS/1613/2012, de 19 de julio, por la que se establecen las bases reguladoras de la concesión de subvenciones destinadas a los programas de actuación para la ciudadanía española en el exterior y retornados* [Order ESS/1613/2012, of 19 July, establishing the regulatory bases for the granting of subsidies for action programmes for Spanish citizens abroad and returnees]. 2012. *Boletín Oficial del Estado*, No 174, p. 52658.

<sup>23</sup>*Orden ESS/1650/2013, de 12 de septiembre, por la que se establecen las bases reguladoras y se convoca para 2013 la concesión de subvenciones destinadas al programa de Jóvenes de la Dirección General de Migraciones* [Order ESS/1650/2013, of 12 September, establishing the regulatory bases and the call for the granting of grants for the Youth Programme of the Directorate-General for Migration for 2013]. 2013. *Boletín Oficial del Estado*, No 221, p. 70157.

<sup>24</sup>*Orden AEX/1059/2002, de 25 de abril, de bases reguladoras de las ayudas de protección y asistencia consulares en el extranjero* [Order AEX/1059/2002 of the Ministry of Foreign Affairs and Cooperation which establishes the aid for consular protection and assistance of nationals abroad]. 2002. *Boletín Oficial del Estado*, No 115, p. 17475.

Mancha, and Asturias, have adopted schemes to facilitate the reintegration of returnees. Engagement policies, thus, seem to be relegated to the national level in Spain.

## 27.2 Diaspora Policies and Social Protection in Spain

The Spanish diaspora policy in the area of social protection is not comprehensive. Although Spain grants social protection to emigrants in some of the five core policy areas discussed in this volume (unemployment, health care, pensions, family-related benefits, and economic hardship), this is limited in coverage and scope, when not totally absent (e.g. economic hardship). Emigrant social protection is regulated mostly through the General Social Security Act<sup>25</sup>, the Statute of Spanish Citizens Abroad and Order AEX/1059/2002 of the Ministry of Foreign Affairs and Cooperation which establishes the aid for consular protection and assistance of nationals abroad. Spain's approach to the issue of emigrant social protection is also shaped by the European Union (EU) framework, bilateral agreements<sup>26</sup> and the Multilateral Ibero-American Social Security Agreement (*Convenio Multilateral Iberoamericano de Seguridad Social*) signed by Spain, Portugal and 13 Latin American countries to cover migrant rights regarding pensions, work accidents, illnesses and disabilities due to work-related reasons.

Social protection is generally implemented abroad based on the collaboration of the social security institutions located in Spain and the so-called Departments of Employment and Social Security (*Consejerías de Empleo y Seguridad Social*). These are offices created by the Ministry of Employment and Social Security in consular demarcations. Their main function is to assist nationals abroad, by providing information and processing their applications for Spanish social benefits or by providing information (but not intervening in the application process) about benefits offered by the host countries. In general, Spain conceives social protection of nationals abroad as residual or subsidiary, meaning that eligibility is conditional upon the lack of access to other benefits provided by the host countries, or situations of extreme and sudden need. Also, in most cases, the benefits granted must be reimbursed by the beneficiaries, especially those linked to repatriation.

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<sup>25</sup> *Real Decreto Legislativo 8/2015, de 30 de octubre, por el que se aprueba el texto refundido de la Ley General de la Seguridad Social* [Royal Legislative Decree 8/2015, of 30 October, approving the consolidated text of the General Social Security Act]. *Boletín Oficial del Estado*, No 261, p. 103291.

<sup>26</sup> Spain has signed bilateral agreements with Andorra, Argentina, Australia, Brazil, Cape Verde, Canada, Chile, China, Colombia, Korea, Ecuador, the United States, Philippines, Japan, Morocco, Mexico, Paraguay, Peru, the Dominican Republic, Russia, Tunisia, Ukraine, Uruguay and Venezuela (24 countries). See: <http://www.seg-social.es/wps/portal/wss/internet/InformacionUtil/32078/32253>. Accessed 31 May 2019.

### 27.2.1 Unemployment

Unemployment benefits are regulated by the General Social Security Act. There are two levels of unemployment protection: (1) the contributory level providing cash benefits that compensate for the job loss, suspension of contract or reduction of working hours and; (2) the assistance level guaranteeing protection to certain unemployed workers that are not eligible for contributory benefits. To access either of the two levels, residence in Spain is required. However, there are some exceptions for people that receive unemployment benefits and decide to transfer their residence abroad. In the case of transfer abroad for less than 12 months for the purpose of seeking or carrying out work, for participating in international cooperation missions, or to engage in professional development activities, the benefits are suspended and can be resumed upon return. If the transfer is for more than 12 months, the benefits are terminated and cannot be resumed upon return. Following EU regulations, unemployment benefits can also be exported for 3 months (with a possibility of extending them for another 3 months) only in case of transfer to a Member State of the EU, the European Economic Area (EEA), or Switzerland. In this case, the beneficiary must show proof of being registered in the employment services of the host country.<sup>27</sup> All bureaucratic procedures regarding unemployment benefits are managed directly by the Spanish Public Employment Services; consulates do not intervene in any instance. Furthermore, the Spanish Public Employment Services do not offer any kind of pre-departure training for prospective emigrant workers.

The Departments of Employment and Social Security, regulated by Royal Decree 1052/2015, are specialized technical bodies attached to the diplomatic missions.<sup>28</sup> They act according to the goals and principles set out by the Spanish external strategy (*Acción Exterior del Estado*) regarding employment, labor relations, social security, and migration and under the lead of the Ministry of Employment and Social Security.<sup>29</sup> They have three main roles. First, they represent the Ministry of Employment and Social Security abroad and advise the diplomatic missions on issues that fall under their competences. Second, they act as the information point

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<sup>27</sup> Public Service of Public Employment (2018). I am moving abroad (*Me traslado al extranjero*). [https://www.sepe.es/contenidos/personas/prestaciones/estoy\\_cobrando\\_paro/me\\_traslado\\_al\\_extranjero.html](https://www.sepe.es/contenidos/personas/prestaciones/estoy_cobrando_paro/me_traslado_al_extranjero.html). Accessed 4 March 2019.

<sup>28</sup> See: *Real Decreto 1052/2015, de 20 de noviembre, por el que se establece la estructura de las Consejerías de Empleo y Seguridad Social en el exterior y se regula su organización, funciones y provisión de puestos de trabajo* [Royal Decree 1052/2015, of 20 November, establishing the structure of the Departments of Employment and Social Security abroad and regulating their organisation, functions and the provision of positions]. 2015. *Boletín Oficial del Estado*, No 279, p. 109757.

<sup>29</sup> In 2018, there were Departments of Employment and Social Security in: Andorra, Argentina, Austria, Belgium, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Denmark, the Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxemburg, Mexico, Morocco, the Netherlands, Nicaragua, Norway, Romania, Panama, Paraguay, Peru, Poland, Portugal, Senegal, Sweden, Switzerland, Tunisia, the United Kingdom, the United States, Uruguay, and Venezuela.

for nationals abroad regarding employment and social security issues. Third, they collaborate with the Ministry of Foreign Affairs and Cooperation and the Ministry of Interior to assist nationals abroad to: (1) facilitate their access to the labor market in the host country and facilitate their return; (2) strengthen the relation with emigrant associations; (3) manage the assistance pensions and health care for emigrants; (4) participate in the processing of benefits included in the Spanish Social Security scheme; (5) inform and process the applications for the programs that target emigrants provided by Ministry of Employment and Social Security and the Institute of Elderly and Social Services (*Instituto de Mayores y Servicios Sociales*, IMSERSO) and; (6) participate in other programs of grants funded by the Ministry in which they may be competent. In their role as information points, several Departments of Employment and Social Security have developed “employment websites” (“*Webs de empleo*”) to offer information on how to find employment and how to access unemployment benefits in host countries. These websites, however, at the time of writing this chapter, do not cover all countries with diplomatic missions.<sup>30</sup> Finally, neither the consular mission, nor the Departments of Employment and Social Security offer repatriation services for unemployed nationals abroad.

To help emigrants find a job or professional training abroad, the Ministry of Employment and Social Security provides grants to companies and NGOs (based abroad or in Spain). Such grants aim to facilitate access to the labor market to young Spaniards living abroad through professional training and language courses or facilitate returnees’ participation in entrepreneurship projects located in Spain.<sup>31</sup>

### 27.2.2 Health Care

Article 17 of Law 40/2006, the Statute of Spanish Citizenship Abroad regulates the right to health care of Spanish nationals abroad. It establishes that nationals abroad must have access to health benefits equivalent to those granted by the Spanish National Health System. Article 17, however, also prioritizes the elderly and dependents. Furthermore, Article 19 establishes that the Spanish General Administration (*Administración General del Estado*) shall guarantee the right to receive benefits to Spaniards abroad who, having reached the age of 65 or being incapacitated to work, are in a situation of need due to insufficient income to cover their basic needs. This article is further regulated through Royal Decree 8/2008,<sup>32</sup> which establishes that

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<sup>30</sup>List of countries with employment websites: Argentina, Austria, Belgium, Brazil, Chile, Denmark, France, Germany, the Netherlands, Peru, Sweden, Switzerland, the United Kingdom, and the United States.

<sup>31</sup>Order ESS/1650/2013.

<sup>32</sup>Art. 21 *Real Decreto 8/2008, de 11 de enero, por el que se regula la prestación por razón de necesidad a favor de los españoles residentes en el exterior y retornados* [Royal Decree 8/2008, of 11 January, which regulates the provision of benefits for reasons of necessity in favour of Spaniards living abroad and returnees]. 2008. *Boletín Oficial del Estado*, No 21, p. 4601.

people that fall under the aforementioned categories are entitled, among other benefits, to health benefits if they lack health care coverage in the country of residence or benefits granted by the host country are considered insufficient. The access to these benefits is managed by the Departments of Employment and Social Security or the diplomatic missions in cooperation with the Secretary of Immigration and Emigration of the Ministry of Employment and Social Security.

Moreover, article 26 of Royal Decree 8/2008 also establishes that Spanish returnees and pensioners of Spanish origin residing abroad that are temporarily displaced to the Spanish territory are entitled to health care as long as, in accordance with the provisions of the Spanish regulations, those of their host country (or the international social security regulations or agreements established for this purpose), health care is not provided. The recognition of health care for these cases corresponds to the Spanish National Institute of Social Security; however, consulates also play a role in the process of recognition, since they are in charge of issuing some of the documentation required (e.g. proof of residence abroad).

Beyond the coverage for returnees and pensioners, Royal Decree 16/2012 establishes that employees of Spanish origin residing in states other than EU/EEA Member States or Switzerland who temporarily move to Spain are entitled to health care in Spain at public expense through the Spanish National Health System.<sup>33</sup>

Article 19 of Royal Decree 8/2008 regulates invalidity benefits granted in article 19 of Law 40/2006. These benefits are only granted when the beneficiaries suffer from physical or psychological disabilities, whether congenital or not, which are expected to be permanent and which disqualify them from any profession or trade. Furthermore, benefits are granted only when there is not a similar benefit offered by host country administrations or if the beneficiary is not eligible for such benefits in the country of residence. Benefits consist of economic aid, calculated based on the living costs of the country of residence of the beneficiary.

Finally, the “Employment websites” developed by the Ministry of Employment and Social Security and the Departments of Employment and Social Security offer information on how to access health care and invalidity benefits provided by host countries.

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<sup>33</sup> First additional disposition *Real Decreto-ley 16/2012, de 20 de abril, de medidas urgentes para garantizar la sostenibilidad del Sistema Nacional de Salud y mejorar la calidad y seguridad de sus prestaciones* [Royal Decree-Law 16/2012 of 20 April 2012 on urgent measures to ensure the sustainability of the National Health System and improve the quality and safety of its services]. 2012. *Boletín Oficial del Estado*, No 98, p. 31278. However, the entitlement is only activated when they are not covered by other health care scheme in accordance with the provisions of the Spanish social security, the provisions of the state of origin or international rules or conventions on social security established for this purpose.



### 27.2.3 Pensions

Spanish nationals abroad can access Spanish pensions through two main routes. The first one is the general route that applies to all Spanish nationals and is regulated by the General Social Security Act. This pension scheme does not require residence in Spain to receive the benefits; only compliance with the general requisites (i.e. a minimum number of years of contribution to the social security system) is necessary. Pensioners that access a pension through this route and decide to move abroad must send the office in charge of managing pensions in Spain a life certificate issued by their consulate on a yearly basis.<sup>34</sup> The second route is established by Law 40/2006 and regulated by Royal Decree 8/2008. This route grants a right to a pension to Spanish nationals living abroad that have reached the age of 65 and find themselves in a situation of need. To be eligible, beneficiaries must demonstrate that they are in a situation of need, namely that they lack economic resources, are ineligible for benefits in the host country, or that the benefits offered by the receiving country are precarious.<sup>35</sup>

Additionally, within the framework of the Multilateral Ibero-American Social Security Agreement, Spaniards abroad can make their periods of contributions to the Spanish pension system count in the other 14 signatory countries, which include 13 Latin American states. This mechanism to export contributions made to the Spanish pension system is also included in other bilateral agreements on social security signed by Spain, such as the one with Andorra<sup>36</sup> or Australia.<sup>37</sup>

The Ministry of Employment and Social Security has also developed websites to offer information on how to find employment in some countries. These websites also include the access to social security (including pensions) in the host country and in Spain.

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<sup>34</sup>Ministry of Labor, Migrations and Social Security (2018). Proof of life [*Fé de vida*]. <http://www.mitramiss.gob.es/es/mundo/consejerias/eeuu/preguntas/contenidos/FeVida.htm>. Accessed 4 March 2019.

<sup>35</sup>Based on the last official statistics, as for 2013, there were 19,893 beneficiaries of this scheme that received an average monthly pension of 164.70€. See: Portal of Spanish Citizenship Abroad (2019). *Estadísticas y Gráficos*. <http://www.ciudadaniaexterior.mitramiss.gob.es/es/estadisticas/index.htm>. Accessed 31 May 2019.

<sup>36</sup>*Convenio de seguridad social entre el Reino de España y el Principado de Andorra, de 9 de noviembre de 2001* [Social security agreement between the Kingdom of Spain and the Principality of Andorra of November 9, 2001]. 2001. *Boletín Oficial del Estado*, No 290.

<sup>37</sup>*Convenio entre España y Australia sobre Seguridad Social, de 31 de enero de 2002* [Agreement between Spain and Australia on Social Security, of January 31, 2002]. *Boletín Oficial del Estado*, No 303.

### 27.2.4 *Family-Related Benefits*

Spanish nationals abroad can obtain a birth certificate from home country authorities for their children born abroad. This is regulated by Law 20/2011 on the Civil Registry.<sup>38</sup> Furthermore, article 24 establishes that the consular offices can also register the vital records relating to Spaniards residing in their consular district (which include the register of births) and issue certifications of the register entries.

Family benefits are regulated by the General Social Security Act approved by Legislative Royal Decree No. 8/2015 of 30 October 2015. Birth grants are only given in the context of large families, single-parent families, mothers with disabilities, and multiple birth/adoption. Beyond other requisites related to the family income, legal residence in Spain is established as a condition for eligibility. Thus, Spanish nationals abroad cannot access this benefit.

The General Social Security Act also regulates a benefit that aims at covering the cost of raising a child. However, this benefit is restricted to children that suffer from a disability to a degree of 65% or more and, as for birth grants, residence in Spain is a condition for eligibility. Nationals abroad cannot access maternity or paternity leave, since this is restricted to beneficiaries that are registered in the General Social Security System (*Régimen General de la Seguridad Social*), which usually implies being employed and a resident in Spain.

In some cases, the “Employment websites” developed by the Ministry of Employment and Social Security also offer information on how to access family benefits in the host countries.

### 27.2.5 *Economic Hardship*

Spain has two main schemes for guaranteed minimum resources. The first one is the active insertion income program (*Renta Básica de Inserción*), which is administered by the central Government through the Ministry of Employment and Social Security. This program grants a specific aid aimed at long-term unemployed who are not eligible for general unemployment benefits. Spanish nationals abroad do not have access to this scheme, since being overseas is cause of suspension of the right.<sup>39</sup> The second scheme is regulated and managed by the regions. Although the conditions and characteristics of this benefit differ significantly across Autonomous Communities, residence is a common condition to be eligible. For instance, in

<sup>38</sup> *Ley 20/2011, de 21 de julio, del Registro Civil* [Law 20/2011, of 21 July, on the Civil Registry]. 2011. *Boletín Oficial del Estado*, No 175, p. 81468.

<sup>39</sup> Art. 2 *Real Decreto 1369/2006, de 24 de noviembre, por el que se regula el programa de renta activa de inserción para desempleados con especiales necesidades económicas y dificultad para encontrar empleo* [Royal Decree 1369/2006, of 24 November, regulating the active insertion income programme for unemployed people with special economic needs and difficulty in finding employment]. 2006. *Boletín Oficial del Estado*, No 290, p. 42716.

Andalusia, article 7 of Decree-Law 3/2017 establishes that residence is a condition for accessing the guaranteed minimum income.<sup>40</sup> The same applies for the schemes offered by the Balearic Islands<sup>41</sup> or Madrid.<sup>42</sup>

Order AEX/1059/2002, issued by the Ministry of Foreign Affairs and Cooperation, regulates the aid for consular protection and assistance abroad. This aid includes an extraordinary individual support for assisting Spanish nationals abroad in concrete situations of need, as well as the total or partial coverage of the expenses derived from repatriation. The aid in both cases, extraordinary need and repatriation, is non-recurrent and must be reimbursed. The Order also establishes that Spaniards residing abroad that are above 65 years old or minors have the right to a subsistence allowance in case of economic hardship. The benefits can be recurrent or a onetime payment. Also, depending on the situation, there could be the obligation to reimburse.

Consulates do not have any obligation to assist nationals in their dealing with host country authorities regarding a guaranteed minimum resource scheme. However, the “Employment websites” created by the Ministry of Employment and Social Security offer information about the services that the host countries offer to Spanish residents.

### 27.3 Conclusions

Diaspora engagement policies in Spain have developed incrementally over the years. This is reflected in a disperse regulation, comprising several legal texts on different themes and of different rank (e.g. Constitution, Organic Laws, administrative orders) and an ample diaspora infrastructure formed by administrations with different rank and embedded across different ministerial departments. Nevertheless, the analysis shows that diaspora engagement policies are developed and managed through two main departments: the Secretary of Migrations dependent on the Ministry of Employment, Migrations and Social Security and the Directorate General for Spaniards Abroad and for Consular and Migratory Affairs of the Ministry of Foreign Affairs, European Union and Cooperation.

The diaspora engagement policies developed by Spain focus on specific dimensions. First, the findings reveal that Spanish emigrants enjoy a high degree of political inclusion. They can participate in regional and national elections, as well as in

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<sup>40</sup> *Decreto-Ley 3/2017, de 19 de diciembre, por el que se regula la Renta Mínima de Inserción Social en Andalucía* [Decree-Law 3/2017, of 19 December, regulating the Minimum Income for Social Integration in Andalusia]. 2017. BOJA, No 245, p. 11.

<sup>41</sup> Art. 6 *Ley 5/2016, de 13 de abril, de la renta social garantizada* [Law 5/2016, of 13 April, on Guaranteed Social Income]. 2016. *Boletín Oficial del Estado*, No 105, p. 29410.

<sup>42</sup> Art. 6 *Ley 15/2001, de 27 de diciembre, de Renta Mínima de Inserción en la Comunidad de Madrid* [Law 15/2001, of 27 December, on the Minimum Insertion Income in the Community of Madrid]. 2001. BOCM, No 310.

consultative bodies that operate at the national, as well as at the consular level. Political participation, however, has been restricted since 2011 due to changes in the electoral rules for external voting that make voting from abroad more difficult and has led to a significant decline in turnout. Second, Spain's policies tend to focus on emigrants' return and their re-integration in Spain. This is indeed reflected in the regulation of benefits for returnees, which range from the inclusion of return as a priority in the Constitution to the creation of social benefits for returnees in a situation of need. Finally, Spain dedicates a great amount of resources to education and cultural programs abroad, which materializes in the creation of Spanish schools abroad. Remittances and other economic policies do not seem to be salient in Spain during the period analyzed.

Spain also grants social benefits to non-resident citizens, although it does not have a comprehensive scheme of social protection abroad. As shown in this chapter, the social protection of Spanish nationals abroad focuses on assistance in situations of need in which host institutions do not intervene. For instance, only residents in Spain are eligible for unemployment benefits and moving abroad is (with some exceptions) grounds for suspension of the right. Health care coverage of nationals abroad is also limited to those returning to Spain, as long as they are not covered by any other scheme provided by their host country. Residence in Spain is also a hard requisite to be eligible for family benefits as well as guaranteed minimum resources schemes. Pensioners, however, can live in Spain or move abroad if they provide a yearly proof of life. In addition, Spain has developed a pension scheme that targets nationals abroad that have reached the age of 65 years and do not have access to pension benefits offered by their country of residence or by Spain through the standard pathways to pension included in the Spanish social security regulations. Finally, Spain has also regulated the aid of nationals abroad in situation of need. These benefits must be generally reimbursed and can cover health expenses or repatriation.

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# Chapter 28

## Diaspora Policies, Consular Services and Social Protection for Swedish Citizens Abroad



André Olsson Nyhammar and Erik Olsson

### 28.1 Introduction

This chapter aims to highlight the different ways through which the Swedish state engages with its citizens living abroad, with a particular focus on non-residents' access to social benefits. To do so, we provide an overview of the complex set of laws and regulations that apply to nationals living abroad, thus trying to examine the type of assistance that they can expect from their “mother country” in accessing host country institutions. Our main argument is that the Swedish principle of residence, as a basic requirement for accessing the social welfare system, limits the opportunities of Swedish nationals abroad to access said system both within Sweden and when residing abroad.

### 28.2 Diaspora Infrastructure and Key Policies

Even though Swedish emigration has been oriented towards different parts of the world, this chapter focuses particularly on Swedish emigrants in the top five destination countries: United States (USA, with 49,200 Swedish citizens), Norway (42,200), Finland (29,200), the United Kingdom (UK, 27,800) and Denmark (19,300 citizens). Formally, a Swedish national living abroad is defined as someone who has had residence outside of Sweden for at least one year and therefore does not have a Swedish address in public records. These nationals are commonly

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referred to as *utlandssvenskar* ('Swedes in foreign countries'),<sup>1</sup> a term that is used throughout this chapter (in plural: *utlandssvenskarna*). This includes Swedish citizens who live temporarily outside Sweden (for work or studies abroad, for instance), those who emigrated with the intention to remain abroad, and the former migrants to Sweden who returned to their countries of origin (or moved to a third country) while keeping their Swedish citizenship.

As explained below, for some social benefits— such as pensions— individuals who do not hold Swedish citizenship have the same status as citizens as long as they have or once had a taxed income in Sweden. Due to the complex nature of Swedish social policies, Swedes living abroad are somewhat of an abnormality to public institutions and the Swedish state does little to support its population abroad (SOU 2017: 5). Non-resident nationals are in most areas seen as protected by their citizenship(s) and their rights as residents of their destination countries. This means that *Utlandssvenskarna* rarely receive any attention in political debates about welfare and citizenship benefits.<sup>2</sup> In practice, the bilateral agreements between Nordic Countries make it easier for *utlandssvenskarna* in Denmark, Norway and Finland to access their host countries' welfare systems. These agreements also make it easier for Swedes residing in Nordic countries to access Swedish benefits. This becomes evident when comparing their situation with the one of Swedish nationals residing in other major destination countries like the USA (as a non-European Economic Area (EEA) country) and even the UK. However, the discussion in this chapter will show that nationals abroad do not have, by all means, equal access to social protection as resident nationals have.

### 28.2.1 *The Swedish Diaspora and Its Relations with the Homeland*

Historically, the major restructuring of the Swedish society during the nineteenth century, as well as the doubling of Sweden's population during the same period, had a number of consequences for the society in terms of poverty, unemployment, housing shortages or emigration, for instance. One of these was the massive emigration of 1.4 million people between 1860 and 1930 (SCB 2019) which, to a large extent, through business relations and continued migration, was paving the ground for the development of a large contemporary overseas diaspora of Swedish citizens in the USA (Tallgren 2000). During the 1930s, Sweden experienced significant changes in its migration flow. After many decades of being a large sending country, Sweden

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<sup>1</sup>A note about terms and translations. Most translation between Swedish and English is taken from official sources when available and done by the experts when unavailable. Governmental agencies is named both in Swedish and in English. Swedish words is put in italics.

<sup>2</sup>An exception may be the (conservative) Moderate Party (*Moderata samlingspartiet*) which has an international division dedicated to *utlandssvenskarna*. The moderate party has a well-known stronghold among the Swedish nationals abroad (Oscarsson 2016).

shifted to becoming a country that increasingly experienced immigration (SCB 2019). This did not imply that migration from Sweden to destination countries like the USA had ceased. With the development of modern Sweden after World War II, not only did the country grow economically but it also internationalized, which means that Swedish citizens had continued to emigrate for purposes of work, business-trade, development, returning migration and residential tourism. Consequently, the presence of Swedish citizens in European countries has significantly increased in recent years. In parallel to these evolutions, the consolidation of the collaboration between the Nordic countries— through the Nordic Council (from 1952) and the agreement of a common labour market and free movement between the countries (1954)— has also created favourable conditions for the emigration of Swedes to neighbouring Nordic countries such as Denmark, Finland and Norway.

With this brief history in mind, this chapter intends to look at how the Swedish state engages with its citizens abroad, with a particular focus on social protection. To discuss this relationship between the state and its diasporic population, Gamlen (2008) uses the notion of “emigration state”. While arguing for a view that acknowledges a diversity of different policies, Gamlen looks at how “different state mechanisms shape different non-resident groups into diasporic members, and these members in turn influence the development of pieces of the state apparatus” (ibid: 852). This implies that states and diasporic populations are “co-constituting” each other and that “emigration states are assembled very differently” (ibid.). Looking at the Swedish case through this lens, we argue that the Swedish policies towards the nationals abroad may, at best, be labelled as “disengaged” or “incoherent”.

### 28.2.2 *Diaspora Infrastructure*

Looking at the public actors that shape Sweden’s relations with its diaspora, the Swedish Migration Agency (*Migrationsverket*) is in theory responsible for Swedish migrants living abroad. In practice, however, this agency is almost exclusively focused on (foreign) immigration to Sweden and, to a certain degree, on return of foreigners to their country of origin as well as ‘deportation’ of asylum seekers with rejected applications. In Sweden, no other department or sub-department is fully dedicated to the issues of immigration and emigration and no other public unit has any specific responsibility for the protection of Swedish nationals residing abroad. Instead, all Swedish authorities potentially have to engage with the protection of *utlandssvenskarna* in the areas that concern their prerogatives. This means that in the area of social protection, Swedish nationals living abroad have to deal with the same general welfare institutions as resident nationals whenever they claim benefits in Sweden.

A key feature of the infrastructure available to Swedish nationals is the consular network. Sweden maintains 98 embassies, consulates and representatives (on a professional level) and about 350 honorary consulates around the world administered and operated by the Ministry of Foreign Affairs. Some of these consulates are also



in charge of the interests of nationals residing in neighbouring countries. In major destination countries for Swedes abroad— Norway, Denmark, Finland, the UK and the USA—, the infrastructure largely consists of an embassy and one or several consular offices that are providing services to the *utlandssvenskarna*. In Norway, for instance, there are 12 consulates (honorary or otherwise) located across the country in addition to the embassy.

Next to this rather limited infrastructure, the last noteworthy institution is the Swedish institute. This institute is a public agency that promotes the interests of Sweden around the world and which— in this framework— sometimes interacts with citizens abroad, as explained below.

### 28.2.3 *Key Engagement Policies*

Formally speaking, there are very few explicit exclusions of *utlandssvenskarna* from the Swedish public life. Yet, the residence criteria attached to many policies de facto excludes citizens abroad from the realm of policies. The lack of ad hoc policy response to their needs therefore often leaves Swedes living abroad without answers for their specific needs in the area of social protection. For this reason, in absence of explicit policies, non-state actors such as the Swedish Church (which was a State Church until 2000), the Nordic Assistance and SOS international often serve as substitutes for the state to respond to their needs (c.f. Olsson 2018).

The Swedish Constitution (*Regeringsformen*) entails electoral rights in national elections for the Swedish Parliament (*Riksdagen*) to any citizen who is, or at some time has been, registered as resident in Sweden provided that the person is included in the electoral roll. This includes the right to vote in national referenda (SFS 1979:369), but not in regional and local elections (county and municipality) and in local referenda (Bernitz 2013). To register to vote as a national living abroad, one needs to update her/his address with the Swedish Tax Agency once every ten years (excluding the first ten years, when this is done automatically). They can vote either in polling stations in Sweden, by courier, by post or sometimes in polling stations set up in embassies or consulates.

Beyond electoral rights and the possibility to maintain dual nationality after emigration, most of the concerns from the state level are focused on maintaining the safety of Swedish nationals abroad in cases of personal or larger-scale emergencies (SFS 2003:491). Consular units offer different services including emergency repatriation, short-term loans, help to contact host country agencies that can provide assistance and help contacting relatives or insurance companies in Sweden. However, most of these services are designed primarily for tourists and short-term visitors and rarely focus on the needs of *utlandssvenskarna*.

Education is a clear exception to this limited engagement of Swedish authorities with their nationals abroad. Sweden funds schools in Swedish in 11 countries and supports five Swedish sections in international schools. This exists in addition to completely private and foundation-owned schools as well as the distance-education

open to all Swedish citizens and residents. The National Agency of Education (*Skolverket*) also offer supplementary Swedish courses for children abroad who normally are attending local schools in the host country. In the UK, for instance, the National Agency of Education also runs a school in London and offers complementary education in Swedish in at least four English-language schools.

Another area with a larger degree of engagement is culture. Public authorities provide funds to non-state actors to showcase Swedish culture audiences abroad that are not necessarily Swedish citizens. As noted above, *Svenska institutet* promotes the interests of Sweden in the fields of culture, education, science and business. In this capacity, *Svenska institutet* often collaborates with Swedish consulates and embassies across the world and develops projects that involve individuals or organizations among *utlandssvenskarna*.

### 28.3 Diaspora Policies and Social Protection in Sweden

According to a report commissioned by the Swedish government, the general impression shared in Sweden about the way it deals with its diaspora is that the country lacks a central policy regarding its nationals abroad (SOU 2017). The legal framework is often considered confusing and not updated which led to the publication of an official investigation in 2017 (ibid). This investigation attempted to summarize the situation for Swedes abroad and it suggested changes to the Swedish legal code in 14 areas (ranging from changes in laws governing unemployment insurance to the law regulating citizens' registration at the Swedish Tax Agency).

Similarly, Sweden's consular network is complemented both by the consular network of other European states and that of Nordic countries which benefits Swedes abroad in certain conditions. However, as mentioned earlier, Swedish consulates are with, a few exceptions, the primary institution by which Sweden specifically responds to the needs of nationals abroad.

First, the consular network has the mission to inform citizens abroad. In practice, the consular network also informs about access to social security or pensions, even though there is no explicit mandate to do so. Similarly, while consular offices do not issue passports or drivers licenses themselves, they can mediate certain services that facilitate such requests. Secondly, consular assistance materializes in help with logistics and contacts in cases of crisis (calling insurance firms, lawyers, relatives in Sweden, etc.). Such service is provided free of charge, but tends to focus on short-term situations, such as health emergencies, issues with law enforcement, crime or natural disasters, as opposed to more structural or long-term difficulties that citizens residing permanently abroad may face (SFS 2003:491). Thirdly, Swedish consulates do offer economic assistance to their citizens abroad in case of emergency, although this service is provided only when all other options are exhausted. In such cases, a repayable loan can be arranged (the cost for such a loan is 600 Sek or 60 EUR) which has to be repaid within a month. Fourthly, as in other EU Member States, Swedish consulates help repatriate the remains of deceased nationals to

Sweden. In this regard, the assistance varies depending on the circumstances, but is mostly done by helping the Swedish Tax Agency to register the death, contacting officials in both countries, contacting family in Sweden and arranging transport. However, the consulates are acting only as mediators and facilitators of such transport as all costs involved are covered by the insurance company or the family of the deceased.

Beyond these basic consular services, Swedish institutions do not develop ad-hoc services for nationals abroad, which in turn entails that they need to interact directly with the same institutions as resident nationals. One of the most common and most important contact within the Swedish state is the Swedish Tax Agency (*Skatteverket*) that, in addition to being the administrative unit for taxes, also keeps the public records in which it is indispensable to be registered to access most Swedish benefits. *Skatteverket* is in fact a key authority for nationals abroad as it often serves as a gatekeeper to other units of the Swedish welfare system. *Skatteverket* is also the authority where individuals file their foreign addresses for tax reasons and eligibility to pensions, for instance.

Before moving to specific social protection areas, this brief description showed that consulates tend to serve primarily the needs of visitors and tourists. This sometimes creates resentment among citizens residing permanently abroad who feel neglected. In fact, there is no other official state department serving the specific needs of Swedish nationals abroad and no centralized information system helps non-resident citizens in accessing Swedish social benefits. For this reason, *utlandssvenskarna* might be eligible for non-state organizations in the destination country such as the Swedish Church. In practice, the Church and private associations often become key actors to accessing information on welfare entitlements (Olsson 2018).

### 28.3.1 Unemployment

The Swedish Public Employment Service (*Arbetsförmedlingen*) is the governmental agency responsible for registering the unemployed and providing support in finding work. Unemployment benefits are, however, applied for at the unemployment insurance (*Arbetslöshetskassan*) that in most cases is administrated by unions (though some limited public options exist). To access unemployment benefits from these insurances, a basic requirement is the registration with the Public Employment Service and that the individual demonstrates that they are active in seeking work. Another requirement is to have previously worked and contributed into these systems. The Public Employment Service (or any other state actor related to unemployment) does not provide any particular information to nationals living abroad on how to access unemployment benefits in their respective country. Hence, Swedish nationals abroad are not, in this sense, receiving any collective guidance on how to access unemployment benefits.

As a significant share of the Swedish population residing abroad lives within the EU, rules on portability of unemployment benefits is the cornerstone of Swedish policies in this area. Additionally, individuals also have the possibility to seek approval of the Public Employment Service for support abroad by covering potential gaps during the transfer of benefits from one country to another. Beyond the EU framework that provides for the portability of unemployment benefits, an important, but partial, exception to the principle of residence in Sweden to access unemployment benefits concerns Swedes residing in the Nordic Countries. Individuals applying for *Arbetslöshetskassan* in Sweden after having lived in one (or several) Nordic countries, can, in contrast to other countries of residence (including EU Member States), use their income from that country to determine their unemployment insurance (if they are eligible) if they maintained membership in a Swedish *Arbetslöshetskassa* during this time. They can also use work in a Nordic country to fulfil the necessary work-requirements for joining *Arbetslöshetskassan* if they earlier worked in the same industry and worked in that industry abroad provided that their return to Sweden happened within five years after moving abroad.

Beyond access to benefits, the other kind of services catered to the unemployed, such as job training or courses, are generally not targeting Swedes living abroad. There are some regional exceptions. One example is *Grensetjänsten*, a Norwegian-Swedish cooperation funded by the European Regional Development fund, mostly active in the border regions of the two countries that helps coordinate agencies of the two states and assists unemployed people to find work (among other things). The information service centre *Øresunddirekt* (funded by various local public agencies and the Nordic Union) is another example. The centre has a service that conveys public information from the authorities to citizens and the business community in the Öresund region (the strait and border between Sweden and Denmark). For Swedish citizens it provides a guide for accessing the Danish labour market and navigating the Danish welfare system.

### 28.3.2 Health Care

*Försäkringskassan* (Insurance Desk, i.e. Social Insurance Agency) is the governmental agency that is in charge of the administration of the public health insurances, while also providing information about the rules and procedures for all residents, visitors, immigrants and nationals abroad. For the latter category, however, its mission consists mostly in the provision of information.

Healthcare insurance in Sweden is universal, funded by taxes with a cap on healthcare expenses for publicly funded healthcare. When it comes to *utlandssvenskarna*, a difference must however be made between access to healthcare in Sweden, access to care in the host country and access the benefits related to long-term illness.

For a national living abroad, access to healthcare in Sweden (for instance, during a temporary visit to Sweden) is guaranteed, but the cap on expenses is not part of that guarantee. The situation varies depending on the country in which the

individual resides. Whereas the European health insurance card determines the conditions of access of Swedes residing in the EU, Swedish nationals residing in non-EU countries are dependent on the existence of agreements between those countries and Sweden. For instance, thanks to regional cooperation in the area of health, Swedish nationals residing in one of the Nordic countries who are covered by that country's public insurance do not need to provide a European health insurance card but instead only a form of identification and their current address. This practice means that access to healthcare in Sweden is a quite uncomplicated and less expensive affair for the Swedish nationals living in the EU or the Nordic countries, but more expensive if a person is residing, for instance, in the USA. However, as the recent Government Inquiry of 2017 (SOU 2017:5) has identified this a problematic area for citizens abroad, reforms may be adopted in the future.

Looking now at Swedish citizens' access to their host country healthcare system, a similar distinction needs to be done between those covered by international agreements and those who are not. Swedes circulating within the EU or moving to another Nordic country benefit from those regional provisions which do not apply to Swedes residing elsewhere. In addition, the bilateral social security agreement between Sweden and the USA also includes provisions on healthcare.

Beyond these provisions on access to the home and host country healthcare system, the consular network offers a number of services in acute and life threatening situations. The first type of support consists in contacting relatives and helping citizens abroad in their bureaucratic dealings with the healthcare system of the host country and the insurance administration. The consular office may also provide some support and assist in translation or interpretation (although this is not a requirement). Secondly, as stated earlier, consular authorities can provide short-term repayable loans to facilitate either repatriation or treatment when all other options are exhausted.

### 28.3.3 Pensions

The public pension in Sweden is three-fold: the guaranteed pension, the income-based pension and the premium pension. The governmental institution that manages and pays out the national retirement pension while also providing general and specific pensions-related information is *Pensionsmyndigheten* (the Swedish Pensions Agency). The agency offers a special service to individuals living abroad via their website ([www.pensionsmyndigheten.se](http://www.pensionsmyndigheten.se)) and a special line dedicated for calls from abroad. As in most EU Member States, Swedish pensions are portable depending on the existence of agreements with the host countries and the type of pension to transfer.

To access the pension as a resident abroad, the individual first needs to submit his/her new address to *Pensionsmyndigheten* for registration. The agency will then send a life certificate, which is required in order to receive the pension. This certificate, in turn, has to be approved and stamped at one of the following institutions/

organisations abroad: Swedish embassies or consulates, the Church of Sweden, a foreign social security institution, a public notary, a foreign police authority, or a foreign record-keeping population authority. In the countries discussed in this chapter, there are several consular offices and churches in different locations that can provide such service for the life certificate. After approval, the certificate needs to be sent back to the Swedish Pensions Agency once a year. There is also an option to send the certificate online to *Pensionsmyndigheten*. This authority also cooperates with several of the foreign equivalent agencies in major host countries. In the case of Nordic countries, the UK, the USA, Germany and Poland, it is expected that their pension institutions automatically send a life certificate to the Swedish agency without involving the resident in question.

### 28.3.4 *Family-Related Benefits*

*Försäkringskassan* is also the public agency responsible for the administration of family benefits. The general rule for family benefits in Sweden follows the EU Regulation (2004) regarding the social security of EU nationals. This Regulation grants access to family benefits for EU nationals working in Sweden and conversely, access to family benefits to Swedish citizens residing in another EU Member State. In Sweden, having the residence in the country is the main requirement to be eligible for maternity or paternity leave, parental benefits, child allowance, care of a sick child or special housing allowance. Short stays abroad under one year are permitted for individuals who receive such benefits from Sweden. Individuals working outside Sweden and residing in this country, are however usually *not* eligible for these benefits, but should receive benefits according to host country's rules and regulations. There are a few exceptions though, such as if only one of the parents works but the family resides abroad (then the benefits will depend on where that parent works). The overriding principle for what types of benefits are available for Swedish nationals is then the country of residence.

This means that for Swedish nationals living outside the EEA, there is almost no right to receive benefits from Sweden except if they work for a Swedish employer. *Försäkringskassan* provides only general information on how to act in these cases. There is no public support for nationals living abroad in how to navigate the host country system. Instead, this support is often available through large migrant associations and the Swedish church.

Beyond benefits, Swedish authorities perform a series of bureaucratic tasks in family-related matters. For instance, Swedish nationals who have children born abroad need to register the birth and name of the children with the Swedish Tax Agency. This is done by submitting a form (including, among others, the name of the child and parents, information on civil state, the gender of child, etc.) along with a copy of the birth certificate, parents' passports, the pregnancy certificate, the proof of fatherhood (if a father is to be registered) and the proof of marriage, if applicable.

This registration is necessary for the parents to be eligible for Swedish benefits (upon return) and for the child to get the Swedish citizenship.

### 28.3.5 *Economic Hardship*

The guaranteed minimum benefits in Sweden are called *försörjningsstöd* (subsistence support). Such benefits are administered by the social service of the local municipalities (*Socialtjänsten*). They are decided upon by a case-to-case basis, but residence in Sweden is, again, a key requirement. While rare exceptions apply, this form of support is thus completely unavailable to nationals living abroad.

In cases of acute economic hardship, consulates can help with the repatriation of nationals back to Sweden or via the above-mentioned short-term repayable loans. It should be noted, however, that in those difficult situations, the Swedish church is often a more apparent presence than state actors (Jeppson Grassman and Taghizadeh Larsson 2012). Volunteers in local parishes of the Swedish church abroad are often engaged in supporting citizens in difficulty via economic aid, translation-help or support in dealing with the host country bureaucracy. Similarly, the deaconry of the church are sometimes organising soup kitchens, doing home-visits even care to those in economic hardship or suffering from life-crisis as well as organising repatriation to Sweden (Jeppson Grassman and Taghizadeh Larsson 2012). Overall, because of the limited and conditional engagement of the state in those situations, the Swedish church and occasionally large diasporic social associations in host countries may assume some of the responsibilities to care for the ones in need (Olsson 2018).

## 28.4 Conclusions

The general principle underlying the right to access public assistance and social support in Sweden is the country of residence. This principle is well in line with the EU regulations as well as the agreements of labour market and social welfare between the Nordic countries. The welfare system and other arrangements for social protection are based on public population records and only exceptionally they address the needs of *utlandssvenskarna*. A noticeable exception to the focus on residence are the EU and Nordic provisions on social security cooperation which guarantee a more favourable treatment to Swedes circulating in these two areas. In that sense, it can be argued that the EU framework and the Nordic cooperation form the backbone of Sweden's engagement for citizens abroad in the area of social protection.

As we have shown, national agencies like *Skatteverket*, *Försäkringskassan* and *Pensionsverket* facilitate access to information regarding the social protection of nationals abroad. In spite of this, the Swedish engagement with its nationals abroad

could however be described as rather limited and modest in the field of social protection. Nationals living outside of Sweden have been targeted with special rules and arrangements only exceptionally. In most cases, they are left to solve their needs individually by consulting the respective agency or the consulates. This, in turn, pushes citizens abroad to seek support in less formalised ways via the church or not-for-profit organizations (Jeppson Grassman and Taghizadeh Larsson 2012; Olsson 2018).

To conclude, this chapter shows that much of the social protection granted to Swedish nationals residing in Sweden is not in any direct sense extended beyond its borders. The state policy towards its citizens abroad generally tries to “integrate” its nationals abroad, rather than encouraging and “building” them as a diaspora. Providing services for non-resident nationals does not currently represent a major concern for Swedish state actors and at least not to any significance for the long-term nationals living abroad. Overall, the political disinterest to engage with the nationals abroad from the Swedish state is apparent. In line with Gamlen’s work (2008), this indicates that Sweden is rather a “disengaged” and “incoherent emigration state” (Gamlen 2008).

In recent years, there have been policy evolutions and efforts to understand better the difficulties met by citizens abroad. Issues regarding pensions, voting rights, consular aid and healthcare are increasingly subject to public inquiries and some steps are already taken to address them. Most notably, the Swedish government decided in 2014 to commission an official inquiry on the state of social welfare as seen through the lenses of international mobility. The commission was named after its main purpose— *Utredningen om trygghetsystemen och internationell rörlighet* (The inquiry of the social security systems and international mobility)— and its report of 2017 examined in detail how the Swedish welfare system deals with the *utlandssvenskarna*. The commission identified numerous areas where policy improvements could be made (SOU 2017) and its report is an additional indication that a new political interest for the issues faced by Swedish nationals living abroad may lead to policy reforms in the future.

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