

Problems and prospects concerning European citizenship

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PURPOSE: presentation of the 5th report on citizenship of the Union (1 May 2004 to 30 June 2007).

BACKGROUND: Article 22 of the EC Treaty requires the Commission to report to the European Parliament and the Council every 3 years on the application of the provisions of Part Two of the Treaty which deal with Citizenship of the Union. This 5th report assesses the application of these provisions during the period 1 May 2004 to 30 June 2007 in the light of the development of the Union and considers the need for strengthening the rights conferred on Union citizens.

CONTENT: the report focuses on the legal core of citizens' rights, namely the right to move and reside within the EU (Article 18), the right to vote and stand as a candidate in European and municipal elections in the Member State of residence (Article 19), the right to diplomatic and consular protection in third countries (Article 20), the right to petition the European Parliament (EP) and the right to apply to the Ombudsman (Article 21). Furthermore, it takes stock of advances in areas closely related to citizenship in the wider sense, such as equal treatment in terms of nationality and the protection of fundamental rights.

European citizenship in figures: more and more European citizens study, get married, live or work in a Member State of which they are not nationals. As of 1 January 2006, there were approximately 8.2 million EU citizens who were exercising their right to reside in another Member State. The results of the 2007 Flash Eurobarometer public opinion survey on European Union citizenship reveal that Europeans are largely aware of their status as citizens of the Union but would like to be better informed about their rights. More than three-quarters of EU citizens have heard about the term "citizen of the European Union" and are aware that Union citizenship is acquired automatically by being a national of a Member State. 90% know that they are simultaneously Union citizens and Member State nationals. Compared to 2002, this year approximately 8% more Europeans claim to be familiar with the term "citizen of the Union" and to know what it entails while 15% more respondents are aware that Union citizenship is acquired automatically by being a national of a Member State. However less than a third (31%) of respondents feel "well informed" about their rights as Union citizens.

The **main issues** raised in the 5th report are as follows:

- **Acquisition or loss of nationality:** the Commission is aware of questions related to persons belonging to the Russian-speaking minority in Estonia and Latvia who are considered to be "non-citizens" and to the situation of "erased persons" in Slovenia. Another issue which has been raised concerns the extension of citizenship to nationals of another country on the basis, inter alia, of their membership of an ethnic community. The Commission has no power to deal with the question of the acquisition or loss of nationality. However, within its remit, the Commission has sought to contribute to solutions linked to this issue by promoting integration and by using the Community instruments at its disposal such as ensuring that Member States strictly implement EC anti-discrimination legislation.

- **Free movement and the right of residence:** the most important development in this area was the entry into force, on 30 April 2006, of Directive 2004/38 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (see [COD/2001/0111](#)). Citizens will only be able to fully exercise their strengthened rights if they are fully informed of them. This is why between June 2006 and February 2007, 19 **infringement procedures** were opened for **non-communication** of national implementing measures. Certain problem areas of incorrect implementation

of the Directive have, however, already been identified such as: third country family members who continue to encounter problems, not only with regard to authorisation of their entry but also with the issuing of residence cards. The Commission used and will continue to use its powers in order to ensure compliance with the Directive.

Many complaints concern obstacles to free movement encountered by Union citizens travelling to another Member State due to the **documents demanded by border authorities and air carriers**. In June 2005 the Commission invited all Member States to verify that national legislation and practice, including the rules and regulations applied to and by airlines, are in accordance with EC law. Following the Commission's intervention, there were essentially no further complaints in this particular area.

- **Electoral rights:** as regards the European Parliament elections, the Commission noted a drop in the participation (45% in 2004, 50% in 1999 and 56% in 1994). An increase of participation of Union citizens living in a Member State other than their State of origin can be noted. This increase is explained by citizens' greater mobility within the EU and by Member States' efforts to inform them of their rights. However, fewer of them are standing as candidates: 62 in 1999 versus 57 in 2004 (of whom three were elected). Consequently, the Commission proposed to amend Directive 93/109 by introducing measures that lighten the burden on candidates and Member States while providing the necessary guarantees against abuses. Measures were also taken to clarify the situation on political parties at European level and their funding. A total of ten political parties at European level receive funding via the Regulation, which is administered by the EP. The budget for the purposes of the political parties at European level was fixed at EUR 10.4 million in 2007.

- **Effective participation of Union citizens in the political life of their Member State of residence:** to ensure that Union citizens are able to exercise their electoral rights in their Member State of residence in municipal and European elections, under the same conditions as nationals, the Commission is assessing the legislation of those Member States whose national legislation does not allow non-national Union citizens to become members of political parties and/or to found political parties. The Commission will request the Member States concerned to eliminate such restrictions. Previous reports on citizenship highlighted the concerns of many Union citizens about the fact that in most Member States, non-national Union citizens are deprived of the right to participate in national or regional elections in their country of residence. The Commission invites Member States to examine this issue in order to promote participation of Union citizens in the political life of their country of residence.

- **Diplomatic and consular protection:** the *acquis* in the area of diplomatic and consular protection is very limited (in particular Decision 95/553 regarding protection for citizens of the EU by diplomatic and consular representations which only came into force in May 2002 due to the cumbersome legislative procedures required for its adoption in Member States). Union citizens are increasingly travelling to and living in third countries. The limited representation of Member States in third countries (in 107 out of 166 third countries a maximum of 10 Member States are represented) and the experience gained from recent crises (namely the Asian tsunami and the Lebanon crisis) illustrated that there is room for improvement in cooperation between consular and diplomatic authorities. This is why the Commission adopted a Green Paper on diplomatic and consular protection of Union citizens in third countries (see [INI/2007/2196](#)) as well as an Action Plan for the years 2007-2009 proposing a series of measures to enhance this protection.

- **Right to petition the European Parliament and the Ombudsman:** the EP received 1002 petitions in 2004 (623 of which were admissible), 1032 petitions in 2005 (628 admissible) and 1021 petitions in 2006 (667 admissible). Between one quarter and one third of petitions are linked or give rise to, infringement proceedings. Complaints may also be sent to the European Ombudsman concerning instances of maladministration in the activities of the Community institutions or bodies. The Ombudsman has continued to witness an increase in complaints, largely due to the accession of the new Member States: 3726 complaints were received in 2004, 3920 in 2005 and 3830 in 2006.

- **Rendering citizens' rights effective:** the Commission continues to receive numerous questions based on alleged violation of their rights, in particular the right of free movement. The success of the **SOLVIT** mechanism, established in July 2002, should be mentioned. SOLVIT helps Union citizens and businesses find fast and pragmatic solutions to problems arising from the incorrect application of EC law by national administrations, within a deadline of ten weeks. Since its creation, SOLVIT case flow has increased from 12 to 70 new cases per month. The average resolution rate is around 80% and case handling time over the period 2004-2007 has been around 65 calendar days. The majority of complaints (66%) are submitted by citizens and concern residence rights, visa, social security, recognition of professional qualifications and taxation. SOLVIT performs very well but Member States need to ensure that their national SOLVIT centres are sufficiently staffed, which is currently not the case in almost half of the centres.

- **Fundamental rights:** while most rights enshrined in the Charter of Fundamental Rights of the EU are not limited to Union citizens, certain rights are linked to citizenship of the Union, i.e. electoral rights (Articles 39 and 40), the right to move and reside freely (Article 45) and the right to diplomatic and consular protection (Article 46). The Council created a major instrument in the field of citizenship on 19 April 2007, when it adopted Decision 2007/252/EC establishing for the period of 2007-2013 the specific programme '[Fundamental rights and citizenship](#)'. The Programme constitutes a new boost for the EU fundamental rights and citizenship policies, one of its main aims being the promotion of a European society based on respect of fundamental rights, including the rights derived from Union citizenship. Community funding under the Programme may be either in the form of grants or through public procurement contracts. The European Union Agency for Fundamental Rights came into existence on 1 March, 2007. It will provide assistance and expertise relating to fundamental rights to the relevant Community institutions and its Member States and raise awareness about fundamental rights.