Citizenship of the Union. 4th report

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PURPOSE: To present the Fourth Report on Citizenship of the Union (1 May 2001 – 30 April 2004).

CONTENT: Article 22 of the Treaty establishing the European Community requires the Commission to report to the European Parliament, the Council and the European Economic and Social Committee every three years on the application of provisions of Part Two of the EC Treaty (Citizenship of the Union). Reports on citizenship of the Union focus consequently on the rights of Union citizens under Part Two of the EC Treaty. This is the Commission's Fourth Report on Citizenship of the Union, which covers the period from May 2001 to April 2004.

The purpose of the Report is to present developments relating to Union citizenship and related rights and to assess the need for other provisions strengthening the rights of Union citizens. With this Report, the Commission fulfils its obligation under Article 22 of the EC Treaty.

The Commission finds that the provisions of Part Two of the EC Treaty concerning rights of Union citizens are applied on the whole correctly and without serious problems. The Member States have implemented the existing secondary legislation in all areas covered by Part Two. The problems identified are mostly due to bad application and incorrect practices rather than to failure of national legislation to comply with Community legislation. Information concerning the proper interpretation of Union rules and the proper application of citizens' rights is crucial.

Information and communication activities must be targeted both at Union citizens and at national authorities administering the issues relating to the rights in question.

The need to strengthen the rights of Union citizens must also be assessed in the light of the results of Intergovernmental Conference that agreed on the Constitutional Treaty, Article III-13 of which corresponds to the existing Article 22 of the EC Treaty. In any case, the following issues can be raised as potential subjects for strengthening the rights of Union citizens:

– The Commission draws attention to complaints related to the lack of the right of non-national Union citizens to vote and to stand as a candidate in national or regional elections in the Member State of residence. However, decisions concerning possible measures to be adopted under Article 22(2) of the EC Treaty still require careful consideration.

– The principle of the free movement of persons has been extended to Switzerland, and it is also guaranteed in the European Economic Area. The next step could be to establish the right of citizens of the contracting parties to vote and to stand as a candidate in local elections in their country of residence. This can be achieved through an agreement between the Member States and the third countries concerned.

– There is no EU-wide provision uniformly governing the repatriation of mortal remains from one Member States to another. The relevant standards and procedures could be harmonised throughout the Union. The Commission will consider the possible actions needed, on the basis of Article 18 of the EC Treaty.

– Article III-11 of the Constitutional Treaty would transfer decision-making powers concerning measures to facilitate diplomatic and consular protection of Union citizens to the Union and thus strengthen the position of these rights. Measures on the basis of this provision would replace measures based on Article 22(2) of the EC Treaty.

Lastly, the Commission underlines the value of confirming the rights of Union citizens in the Constitutional Treaty by incorporating the Charter of Fundamental Rights with mandatory legal status.