

## ***Europe United***

*Statement on the EU Citizens' Rights  
("EU Citizens' Rights – The way forward": Consultation  
on how to strengthen the rights stemming from Union  
Citizenship)*

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## I. Introduction

As the introduction of the consultation questionnaire rightly points out, the introduction of the concept of Union Citizenship through art. 17 of the Maastricht treaty (now art. 20 TFEU) was an important move from a purely economic union founded by states towards a union of the people. It has also developed into an important symbol for the connection between citizens and the Union<sup>1</sup>. At the same time, though, Union Citizenship remains fragmented and hasn't been fully thought out in some areas. Due to this, public perception of the rights Union Citizenship entails (and those it doesn't) doesn't always reflect the legal reality.

The Commission has therefore chosen a good path by consulting citizens and civil society directly to report on problems they are encountering when trying to make use of their rights as union citizens and we hope the answers provided by us and others will be of help.

In our answer we will mainly focus on general issues of citizenship and on the political rights that should stem from it.

### **Where we stand today**

As pointed out above, the concept of Union Citizenship still remains incomplete and fragmented, even though some progress has been made through several directives and the Lisbon treaty in the last years.

European Citizenship still only entails limited rights and can't be compared with the rights, one would normally expect from a full-fledged citizenship. EU citizens are de facto still treated as secondary to national citizens in most EU states and the rights stemming from citizenship remain mostly limited to the right to move freely, the right not to be discriminated against on basis of nationality and limited political participation rights. Especially when it comes to having access to official positions or participating in the political life of the state of residence, Union citizens are still not treated equally to citizens of the state. Furthermore, the fundamental rights in the EU are separated and spread over several documents (Four freedoms and Citizenship rights in the TFEU, Charter of Fundamental Rights, prospectively ECHR), leading to a fragmented and intransparent set of fundamental rights which might be hard to understand for citizens.

### **Where should Union Citizenship be heading in the long run?**

We believe that in order to further develop Union Citizenship, a long term vision for where the development should be heading might be helpful. To fulfil the expectations of high democratic standards we rightfully have in Europe, this can only be a development towards a fully fledged citizenship. While Union Citizenship in this long-term vision could still be derived from holding national citizenship of a member state (in a similar way as Swiss citizenship is derived from sub-national citizenship), the important part will be to ensure that EU citizens have full rights, wherever they happen to live in the Union.

This would especially mean that all EU citizens with permanent residence in another member state than their home state should have all the same rights as citizens of the state they are living in, especially full political participation rights and access to official positions.

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<sup>1</sup> See European Commission: Fifth Report on Citizenship of the Union, Brussels 2008, page 1

### **Missing rights**

Having a look at the different sources of law for the Citizens' rights, it quickly becomes visible that a few of the rights one would normally expect here are either missing or hardly developed. This especially applies to:

- A usable freedom of association, especially by way of a European association statute and by ensuring full legal recognition and legal personality across the Union for associations registered in one member state
- Real equality of EU citizens residing in another member state with nationals of that state, especially:
- The active and passive right to vote in all elections in the state of residence, equal to nationals of that state
- The right to run or apply for all political and public positions in the state of residence, equal to nationals of that state

## **II. Answers to the Commission's Consultation questions**

As we are concentrating on the subjects of equal treatment, political participation rights and fundamental rights, we will join questions 1-4 and 6-8 and answer them in two paragraphs. Furthermore, we will talk about the issue of fundamental rights which hasn't been brought up in the consultation but which we feel should be addressed here as well.

### **Questions 1-4**

*1. What are the main obstacles European Union citizens currently face in the exercise of their rights resulting from Union citizenship? What could be done to address these obstacles (for example, by providing citizens better and simpler access to information, advice and problemsolving assistance etc)?*

*2. In which areas should the rights of citizens be strengthened?*

*3. What are the main obstacles faced by European Union citizens when moving to or residing in another EU country? What could be done to remove these obstacles and enhance this right (for example, by improving enforcement of EU rules; simplifying administrative procedures, etc)?*

*4. What could be done to improve the recognition of documents relating to birth, marriage, death, etc between Member States, and to reduce formalities and costs (for instance by ensuring automatic recognition of such legal documents in any other Member State, by establishing standard European formats for specific documents, etc)?*

As already pointed out in the introduction, the legal background of citizens' rights in the Union is still fragmented and intransparent, making it hard for citizens to know about their rights and use them accordingly. At the same time, though, member states are sometimes still reluctant to fully execute them or might be unaware of the implications of those rights. The combination of both can lead to situations where citizens are legally entitled, yet have a hard time to actually use those rights.

From own experiences and those of other members of Europe United, I can report on experiences like those:

- Citizens moving to another EU state might not receive all the information they need to be able to identify and deal with all bureaucratic hurdles.
- Upon moving to Austria, one has to register with the state government for permanent residency. While this is supposed to have purely declaratory character, the list of documents that have to be provided (with certified translation) is quite extensive and parts of the procedure require detailed information which might be hard to understand or convey for non-native speakers of German. This creates de facto hurdles for Union citizens trying to use their right to free movement. The situation is similar in some other member states.
- When using one's voting right in municipal or European elections, election authorities are not always informed about their right to vote and voters might be missing from the electoral roll or be subject to delays while their identity needs to be checked again.

As there might surely be many other similar problems arising in other situations, all of the proposed means to tackle those problems (providing assistance, enforcing EU rules, simplifying administrative procedures etc.) are appropriate but need to be combined in order to be successful.

The best way to overcome those problems would be by establishing a fully fledged citizenship as indicated in the introduction where such bureaucratic hurdles would be completely abolished. Thus, all EU citizens would have the right to move to other EU states without having to deal with any other registration procedures but those expected of nationals of the state they are moving to.

As long as this optimal situation is not achieved, an easy way to give practical support and information to citizens might be to have multilingual "Citizens' rights guides" working in places such as state or municipal offices dealing with above-mentioned issues and giving both advice to EU citizens and training to other employees/officials dealing with EU citizens. Those guides could be sourced or trained by the existing network of Europe Direct offices.

Concerning official documents as listed in question 4, it might be worthwhile that the same "guides" resp. the Europe Direct offices should either be given access to existing EU translation infrastructure to carry out document translations or be granted EU funding for carrying out translations locally (which should then be free for citizens).

## Questions 6-8

6. What are the main obstacles faced by European Union citizens residing in another EU country when voting or standing as candidates in municipal and European Parliament elections? What could be done to remove these obstacles and enhance these rights (*for example, by making it easier to register on the electoral roll, etc*)?

7. What could be done to increase involvement in the democratic life of Union citizens residing in another EU country (*for example, by facilitating their participation in political parties, etc*)?

8. What could be done to increase voters' participation in European Parliament elections (*for example, by carrying out electoral campaigns focusing on European issues, etc*)?

The questions of political participation and voting raised in the consultation paper are of utmost importance, as they tackle the still-existing "democratic deficit" that's being discussed in scientific circles and increasingly in the broad public.

While legally, "European" elections and "European" parties do exist, they are merely "European" on paper. De facto, the European elections are still fought and won by national parties in national election campaigns in with no real connection to European politics and policies. The existing "European political parties" are not even worth their names as they have no programs, don't field candidates, don't shine up on ballot papers and don't take decisions. For all practical reasons, they are mere Potemkin village parties.

This is more than a simple problem of naming, though but is directly connected to the problem of the "democratic deficit" and to the decreasing voter participation in European Parliament elections. As long as national parties still have the last say over their MEPs and put their interests above those of the European level, the European Parliament can't be expected to effectively control other EU institutions and as long as it can't do so, there is simply no reason for voters to go to the polls for the EP elections.

*A little thought experiment:*

*Imagine a state like Germany had a political system similar to the EU:*

- In 16 states, different parties would run for elections, each with different names, manifestos and candidates. Some of them would co-operate but might still have huge, even conflicting opinions on important issues.
- They'd sit together in one parliament where even the biggest state would only have about 1/6 of the seats and even the most successful party from the biggest state could not hope to score more than 10% of the total seats of that parliament.
- The parties would form fractions with others they co-operate with but would change them regularly and often vote against their "partners".
- The members of parliament wouldn't be able to effectively control other institutions of the state as they'd run the risk to lose their seat in the next elections if they do so as the state parties would have no interest in a strong parliament.
- The parties would before the elections run campaigns on issues not connected to German politics but only to regional politics and would after the elections not give their German MEPs a real chance to inform their electorate about German politics.
- The highest positions in the state (President, Chancellor, Foreign minister or similar) would not be elected but be selected by the prime ministers of the states behind closed doors, often even before the election date.
- The parties wouldn't field any candidates for those positions, not even any counter candidates if the first term of them ends.
- The most important decisions wouldn't be taken in parliament but behind closed doors by state ministers or prime ministers.

*And now you may answer yourself: Why would any voter bother voting in the German elections in such a system? Why would they want to bother in European elections?*

While the EU obviously isn't a state, many of the reasons why people probably wouldn't vote in a system like the one I sketched out above can be translated into the European system. If an increase in voter turnout for European elections is desired, this can only be achieved by making European politics actually "European" and "political", which it too often isn't at the moment.

Practically, this would mean that not the national parties but European parties should field candidates for European elections by way of European lists, with European manifestos, that European parties would before the elections nominate candidates for the top positions in the Union (at least the in the Commission) and give European voters a choice between them (and this includes that European voters would have the ability to deselect a Commission). Furthermore, it must be possible for Citizens to be politically active in a cross-border context (which is not the case at the moment) and lastly, there should be ways to actually found European political parties which could run in European elections in their own right (and without the current high hurdles for founding such parties).

Furthermore, Union citizens living permanently in other member states are still deprived of some of the most basic political rights – namely active and passive voting rights in national and regional elections<sup>2</sup>.

If EU citizenship was developed into a fully fledged citizenship giving EU citizens in another member state the exact same rights as nationals of that state, such problems would naturally disappear. As this is not yet achieved (and may not be achievable in the foreseeable future), we believe the Commission should try to pressure member states to give EU citizens full voting rights in national and regional elections.

### **Lastly: Fundamental rights**

As this issue hasn't been brought up in the Consultation, we'd like to raise the issue of fundamental rights here as well as it's deeply connected to Citizens' rights (the latter being a subset of them).

While the situation concerning fundamental rights has improved over the last years, as pointed out in the introduction, it's still fragmented and some rights are missing or incomplete. The current legal situation is intransparent and hard to understand for citizens. It should therefore be the goal of the Commission to work on better integrating all fundamental rights into one framework and ensure that this framework will be made binding in all EU states and be integrated directly into the EU treaties.

Furthermore, more pro-active information from the side of the Commission is needed in this area to make sure all citizens can know their rights.

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<sup>2</sup> With the odd exception of such regions which at the same time act as municipalities where EU citizens may end up having voting rights in regional elections in some parts of a state but not in others.