

GUIDELINES FOR EUROPEAN CITIZENS' RIGHTS, INVOLVEMENT AND TRUST



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Foundation

European
Citizens' rights,
Involvement and
Trust

The European Union launched a year of citizens in 2013 to celebrate the 20th anniversary of the inclusion of European citizenship in the Maastricht Treaty. As a result of the case law of the European Court of Justice, a comprehensive legal framework is in place governing free movement.

This is the first right of the European citizen. European citizenship has now become an established fact in Europe, “destined to become the fundamental status of nationals of Member States” in the words of the European Court. But what of its future in a period of doubt about the European project? What is the relationship between a wider European citizenship and EU citizenship? Is this new form of citizenship post-national and self-standing, and if not, how does it relate to national citizenship? What else but a transnational citizenship holds Europe together and if that is becoming more evident as a result of the economic crisis, how can a more full-scale European citizenship emerge? The aim of these guidelines is to stimulate debate on such questions.

These guidelines have three main objectives:

- i. Place Union citizenship in a broader framework.** Only a European citizenship based not just on territory, but also on values and one which is on a continental scale can achieve enough popular appeal to unite people of diverse cultures, languages and histories. European human rights instruments provide the best available expression of common values of democracy, fundamental rights and the rule of law. Any transnational citizenship has special features and should not be seen only through the lens of national citizenship. Rights to free movement, equal treatment and non-discrimination acquire a particular prominence in order to achieve access to each other's national territory and services, as well as corresponding responsibilities. Any transnational citizenship is fragile and faces the challenge of how to bridge the gap between the fine legal principles and the way fellow citizens are treated as foreigners on the ground. Hence emphasis has to be placed on enforcement, enactment of European citizenship, open and democratic institutions.
- ii. Bring about a more coherent citizenship within the European Union.** To develop European citizenship on the basis of the European Union requires a more coherent approach, in order to increase public understanding and support. What is European citizenship? Certainly it is more than just the limited set of rights in Articles 18-25 of the Treaty on the Functioning of the European Union (TFEU). Pieces of citizenship are scattered across the EU treaties, Institutions and committees, so that it becomes everyone's and no one's responsibility. As a result, the tendency for any citizenship to mean different things for different people and academic disciplines is reinforced, so that it can end up an abstraction. In line with a consensus that any citizenship involves rights, involvement and trust, these guidelines bring together in such a framework the fragmented citizenship of the Union. Indeed those components of any citizenship stand or fall together.

iii. Introduce reforms for a full-scale European citizenship. The advantage of a holistic approach is that it becomes easier to perceive gaps and ask why certain rights and policies are in place and not others. Why is it that European citizens resident in other EU countries can vote and stand in local and European but not national elections? Why are the Treaties a more effective basis to combat some forms of discrimination than others? Why in the European Union are some procedures for citizen participation well regulated with rights of appeal, whereas others remain purely voluntary? Can the channels of communication between citizens and the EU Institutions really work if people are not better informed and educated in the first place? Is it just a question of creating democratic institutions or of creating more European citizens?

The guidelines bring together 12 proposals for reform to develop European citizenship:

- A more preventative, collective and problem-solving approach to the enforcement of European rights
- Creation of a European free movement solidarity fund
- Full political rights for European citizens
- A more inclusive approach to European citizenship extended to legally resident third country nationals
- Wider citizen access to EU policy-making by making voluntary systems mandatory, user-friendly and multilingual
- Increased regulation and transparency in lobbying practices
- Drawing up a European law for the fair and regular conduct of citizen participation practices as a pillar of EU decision-making
- Easier to use Citizens' Initiatives, whereby over one million people can demand a European law
- Fostering a civil society for European citizenship
- A right to be informed and an introduction of education for European citizenship in schools
- Creating in stages an entitlement for all European citizens to participate in a European exchange programme
- A European citizenship card making it easier to prove such an entitlement, enforce European rights, sign European initiatives and vote in European elections

Finally, the guidelines stress the nature of European citizenship as an active process rather than a fixed status. Most of the reforms proposed in the guidelines should, with political will and pressure from citizens themselves, be introduced without changes to the EU Treaties. One exception is the revision clause itself – Article 25 (TFEU) – which is far too restrictive to allow this common citizenship to develop, requiring a special procedure and unanimity in the Council of Ministers. Instead, the normal democratic procedure is advocated, with the European Parliament as co-legislator and majority voting in the Council. With a clearer understanding of what it is and an ambitious reform agenda, a full-scale European citizenship can fulfil a role of holding the European Union together and building solidarity.

Towards a full-scale European citizenship

European citizenship is additional to and does not replace national citizenship. This first transnational citizenship of modern times is destined to become the fundamental status of the peoples of Europe built on rights, involvement and trust. European citizenship finds expression in the context of the European Union, whilst being a citizen of Europe has a geographically wider continental-scale meaning. This is a citizenship, which can only be based on shared values, rather than statehood or fixed territory and borders. It is a citizenship open to the rest of the world in a Europe, which should be a haven for refugees and asylum seekers. Where possible the same rights should be enjoyed by European citizens and all those on the territory of the European Union and neighbouring countries.

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European citizenship is based on European values of democracy, human rights and the rule of law expressed in international charters, the Council of Europe Convention of Human Rights and the European Union Charter of Fundamental Rights. This places citizenship in the broader framework of traditional and modern rights to dignity, freedoms, equality, solidarity and justice.

02

A transnational citizenship is not about rights to basic services of the state, but the opening up of such services to each other on a mutual and shared basis of solidarity. To work effectively, European citizenship has its own distinct set of priority rights and concerns:

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- European citizens should enjoy the freedom to move anywhere in Europe without let or hindrance caused by differences in residence rights, social security entitlements or recognition of professional and academic qualifications. Visa requirements imposed on people on the periphery of Europe should be abolished.
- To be able to move freely in Europe, citizens must have a portable right to equal treatment supported by an effective ban against discrimination based on nationality and all other forms of discrimination in all walks of life.
- Equal treatment means that special attention must be given to the most vulnerable in society. This may be because they are members of a minority such as the Roma, or because they are children, frail, elderly or suffering from a disability. It is in the nature of a European citizenship to place special emphasis on the integration of migrant workers and their families.

Citizens, who will receive equal attention, have the right to expect that decisions are taken as openly and as closely as possible to them. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by representatives of government or international organisations. This right includes:

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- The right of every person to be heard before any individual measure, which would affect him or her adversely, is taken.
- The obligation of the administration to give reasons for its decisions.

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Anyone whose rights and freedom, guaranteed by the law of the Union, become violated, has the right to an effective remedy, which includes:

- First level advice free of charge, and access to rights of appeal and effective representation.
- A fair and public hearing within a reasonable time by an independent and impartial tribunal.
- Legal aid for those who lack sufficient resources to ensure effective access to justice.
- There should be a right to appeal, provided recourse to other remedies has been exhausted, to the Council of Europe, the Court of Human Rights in Strasbourg and the European Court of Justice in Luxembourg.

06

European citizens benefit from rights and, therefore, responsibilities:

- To comply with each other's constitutions and laws, and uphold their shared values.
- To recognise the right of other citizens to act autonomously within the law and to take their interests into account in their own claims.
- To learn about and respect, as equal to their own, the languages and cultures of other nations.
- To act jointly in order to overcome the major challenges facing Europe and the planet which are beyond the capacity of national citizenship in small and medium-sized European states. Such challenges include: the growth of inequalities, the rise in racism and xenophobia, systematic human rights abuses, natural disasters and security threats within or outside Europe.

07

All European citizens and persons legally resident in Europe have rights:

- To be informed of their rights and the policies of elected representatives, benefiting from both freedom of information laws and the protection of their privacy.
- To be heard by public authorities before decisions are taken, through easy to use consultation, deliberative and participatory mechanisms to which a measured response should be given.
- To vote, campaign and stand as candidates in all elections, whether local, regional, national or European, either in their country of residence or their country of origin, and to participate in referenda and Citizens' Initiatives.
- To petition parliaments and the executive, and present initiatives for new laws or policies signed by a minimum number of people; such initiatives should be acted upon by public institutions or be refused for good legal, budgetary or practical reasons.

Developing citizenship in the context of the EU

Citizens' rights

Union citizens have the right to move and reside freely within the territory of the Member States subject to the limits in the Treaties. Free movement is a fundamental right and its purpose does not need to be justified, whether it is used to work, seek work, study, train or retire. This right is extended to members of the family, spouses or recognised partners of the citizen, including those who are nationals of a third country.

This states simply that free movement is the first right of the European citizen. The limits relate to imminent threats to public order or security, and the requirements to have comprehensive sickness insurance and sufficient resources not to be a burden on the host Member State (cf. Directive 2004:38 on free movement and residence).

08

The aim should be to close the gap between the fine principles of European law and enforcement on the ground.

"Prevention is better than cure" and lengthy negotiations or court action to ensure that Member States comply with European directives is unhelpful. It is also important to prevent new barriers appearing.

There is a European one-stop shop with Europe Direct, Your Europe Advice and Solvit. There should be an equivalent service for citizens in each Member State, operating to European standards of service.

There is little chance that the Commission will act on an individual complaint, so group action, including in the European Court of Justice, is necessary.

This is a new idea. Such a fund should be based on contributions from the country of origin, the host country and the EU budget, and could be set up within EU social and regional funds.

In order to ensure the proper enforcement of European citizens' rights, the Union will adopt an action plan binding on Member States to:

- Strengthen the application of European law with preventative measures, including a requirement for Member States to notify the Commission of any draft laws or administrative practices which could lead to barriers to free movement of persons.
- Guarantee more rapid and effective access to justice by recognising that European citizens can take collective action to defend their rights including after other remedies have been exhausted in the European Court of Justice.
- Set up in each Member State a one-stop shop for information, advice and problem-solving for European citizens on the move, whilst ensuring that the same standards of service and time limits apply to European and national assistance services.
- Create a European free movement solidarity fund to provide emergency help to vulnerable EU citizens and additional resources for local health, educational and housing services.

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- The fund can also be used to support the integration of migrants from outside the Union. It should work in partnership with civil society organisations.
- Ensure that if a Member State has clearly violated fundamental or European citizenship rights, the Commission can file for interim measures to put an immediate stop to such practices.

The Commission already has such power under the Treaties. The EU is considering how the Charter of Fundamental Rights can be enforced effectively.

10

European citizens should have full political rights and should not be deprived of the right to vote in national elections, for example, because they have exercised their right to free movement.

Citizens of the Union have the right to vote and stand as candidates in elections to the European Parliament and municipal elections in their Member State of residence. This right should be extended to national and regional elections as well as referenda.

11

All those from third countries who are legally resident in the Union should be given the opportunity to obtain the nationality of their host Member State. In this way, they become European citizens. Prior to obtaining Member State nationality, they should enjoy a set of European rights equivalent to those of European citizens.

The Tampere Declaration of 1999 which states that: "The European Council endorses the objective that long-term legally resident third country nationals be offered the opportunity to obtain the nationality of the Member State in which they are resident."

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Article 8 of the Charter of Fundamental Rights gives a higher priority to data protection.

European citizens have a fundamental right to the highest standards of protection of their personal data. Given the expansion of the internet and data available to commercial enterprises and public authorities, the European Union will adopt laws to ensure that protection of privacy keeps in step with technological progress.

Involvement

Citizens of the Union and any natural or legal person residing or having their office in a Member State have the right to:

- Write to any of the Institutions, agencies and bodies of the Union in one of the official languages and receive an answer within a reasonable time in the same language.
- Submit an individual or collective complaint of a violation of European law or rights and be informed of the action taken.
- To be heard by the competent European Parliament committee if their petition receives more than 100,000 signatures from a minimum of 7 Member States.
- Make a complaint regarding an instance of maladministration by the Union authorities to the European Ombudsman or, where individual interests are directly affected, to the European Court of Justice.
- Receive diplomatic and consular protection from any Member State, in a third country in which their state or country of residence is not represented.

The European Union will adopt a law to establish time limits for response to citizens' complaints or requests and other standards of good administrative practice for all EU Institutions and agencies. These time limits and standards will also apply to Member States' administrations and agencies when dealing with European citizens.

This article is based on Article 24 TFEU which refers to the right to petition the European Ombudsman. However there is a deliberate extension to Article 24 TFEU envisaged here. In particular, we propose extending these rights to (non-citizen) residents of the Member States.

The second bullet point seeks to strengthen the accountability of the Commission towards complainants.

This article also seeks to fill a gap between a normal petition, which can be signed by a single individual, and a Citizens' Initiative with the collection of one million signatures.

A number of points of access for citizens to the EU exist, free of charge. In some cases, not in all, time limits exist for answering citizens' appeals or handling complaints. Legislation should be introduced or revised to provide for more uniform standards.

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Freedom of information is essential to the practice of EU citizenship. Any citizen of the Union and any natural or legal person residing or established in a Member State will have the right to access documents subject to the limits established, whatever their medium, from the Union's Institutions and agencies, and in particular:

- To know the position of their government in EU negotiations.
- To access all documents of a legislative nature or which could lead to legislation.
- To access documents relating to international agreements or treaties which have an impact on European standards.

Each Institution and agency will appoint an independent information commissioner to assist citizens in their search for documents.

Like the proposal above on data protection the aim is to give more prominence to the right. It builds on and strengthens Article 15 TFEU and Article 12 of the Charter of Fundamental Rights.

Here, "subject to the limits established" refers to the mandatory and optional exemptions in the regulation 1049/2001 on access to documents. For example, there is a need for more transparency in the EU-US negotiations for a Transatlantic Trade and Investment Partnership (TTIP) according to the European Ombudsman.

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Transparency of the legislative and decision-making process can be achieved if transparency is applied not only to the EU Institutions, but also to lobbying practices.

The current voluntary register of organised interests is incomplete and entries often inaccurate, giving citizens only a general idea of the extent of lobbying practices which have expanded in recent years. There are at least 30,000 lobbyists round the EU Institutions.

In his speech to the European Parliament on 15 July 2014, the incoming Commission President, Jean-Claude Juncker promised to make the transparency register legally binding and extend it from the Commission and European Parliament to the Council of Ministers.

European citizens have a right to know which organisations, whether public or private are making representations to the EU Institutions on which specific issues and with what resources. In this way, they are able to judge whether the process is fair and balanced. A European law should:

- Make inclusion on the transparency register mandatory for all organisations seeking to influence the European Institutions.
- Ensure that entries are accurate, complete and up to date by regular checks and appropriate sanctions for non-compliance.
- Provide for the register to cover all Institutions, bodies and agencies of the EU.

Consultation standards should be mandatory, widely used, multilingual, accessible, and a means of dialogue with citizens. In terms of Article 11 of the Treaty on the European Union, the standards should apply not only to the Commission when it initiates a draft legislation but to the other Institutions and Member States.

European citizens have a right to be heard by the Institutions. Public consultations are a means to reach the majority of citizens' interests and ensure the widest possible input to decision-making. The Commission's standards for consultation should become mandatory and apply to the other Institutions and to Member States when they develop their responses to European initiatives. In particular:

- Consultations should be widely advertised in a more friendly way in particular to engage with minority interests and hard-to-reach groups.
- The aims and questions should be formulated to be accessible to lay persons and available in all official languages.
- There should be appropriate feedback and explanation as to why certain views expressed were accepted and others rejected.

Trust

All citizens of the Union, and all natural persons residing in a Member State, shall be informed about their European rights and activities of the European Union, so as to be better able to participate in European policy making. The Union Institutions and Member States will:

- Listen to citizens
- Produce factual and objective information about European Union activities, expressed in clear and understandable language.
- Provide and disseminate this information by all available means in a socially balanced way in all official languages.
- Give every European citizen of voting age a handbook about European rights and how to find out more about the European Union. Also see point 22 on education about European citizenship.

A right to be informed was first proposed when the Commission on the Future of Europe was considering the draft Constitutional Treaty. The proposal was supported by the Commission and European Parliament at the time, but has yet to be included on the agenda for Treaty reform.

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Plan D for democracy, dialogue and debate showed that such processes as citizens' consultations, juries or town hall meetings can work at European level. They should become more systematic and conform to standards.

Such standards relate to representative recruitment of citizens, access to expertise and engagement with decision-makers and information on the results.

Participatory and deliberative processes should become a pillar of the European Union's decision-making, so as to give citizens an effective voice both in setting priorities and ways to improve the quality and enforcement of legislation. A European law should be adapted to ensure that there is regular use of such practices and that they meet fair and democratic standards. Such practices should be applied across all Member States with a representative sample of the population proposing how to develop European citizenship itself.

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European Citizens' Initiatives (ECIs) for which over 1 million signatures are required from a minimum of 7 Member States should be easier to use. The EU Institutions should:

- Make the temporary provision to ECI organisers of a secure server for online signature collection permanent
- Simplify and harmonise the requirement for signature collection across Member States, name and address being sufficient.
- Encourage the setting up of an independent European fund to which applications can be made for start-up grants, and reimbursement of a share of the costs for successful ECIs.
- Allow all European citizens and legally resident third country nationals to sign an initiative from the age of sixteen.

In light of the experience of ECIs and the high failure rate, reforms are essential to make the regime simpler and more uniform.

For ECIs to become a genuine citizens' right, and avoid its capture by lobbyists and powerful interests, such financial support is necessary.

Access to this first ever transnational agenda setting instrument should be as wide as possible.

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This article is based on Article 14 TEU whilst supporting reforms to make the European elections more European. This can be achieved through more competition among candidates for Commission President and other high office functions as well as taking a step towards a European constituency. The Parliament could also at least study the issue of EU-wide referenda.

The European Parliament, elected by direct universal suffrage, represents European citizens and is the main advocate of their concerns in the decision-making of the Union. In particular:

- Each European political party should put forward its candidate for President of the European Commission to give voters choice.
- Citizens should have the choice also of voting for candidates on transnational party lists, to enhance the European character of the elections.
- The European Parliament should propose how EU-wide referenda could be introduced to allow citizens to choose vital options for Europe's future.

This is close to the writing of Article 11 (TEU), which calls for the creation of a European public space. The rest of this article relates to long-standing demands for the “Europeanisation” of civil society, which is essential to the development of European citizenship.

In order to develop European citizenship as a way to connect different languages and cultures, the European Institutions will in terms of Article 11 (TEU):

- Provide citizens with their own European public space to exchange views on all areas of transnational action. The Institutions should make available e-participation tools and facilities for face-to-face dialogue.
- Encourage citizens to play their part in the building of Europe through the adoption of a European association statute and a pact for open dialogue between the European Institutions and civil society.
- Further develop the programmes for transnational exchange of best practices and projects in the areas of culture, consumer, environmental, health, social protection and territorial cohesion policies which are closely linked to European citizenship.

A full-scale European citizenship cannot be achieved without education. All European citizens have a right from a young age to education about European citizenship. After widespread consultations, the Commission will propose:

- A model teaching manual in all languages for use in schools and out-of-school activity.
- Recommendations to Member States to add a European dimension to their own programmes for citizenship education, in particular when it is related to the teaching of history and languages.

The competence of the European Commission is limited when it comes to education, but it does have competence to recommend European citizenship to be added as a theme to national civic education.

A right to be informed and educated for European citizenship does not mean much if there appears to be little chance to put it into practice. A universal entitlement may have some support in the Commission which first called its new programmes “Erasmus for all” and some support among Member States which increased the budget by 40% for 2014-2020. However, such an entitlement will only be phased in gradually in conjunction with a European citizenship card.

All European citizens should be given on an equal basis, a once-in-a-lifetime opportunity to participate in a European educational training or youth programme in another European country. The European Commission should propose:

- How to develop such an entitlement on the basis of the Union’s Erasmus plan and life-long learning programmes.
- The conditions attached to such an entitlement and the timetable for putting the necessary resources in place.
- A European citizenship card both as a symbol and proof of such an entitlement, other European rights and a means of signing Citizens’ Initiatives, and petitioning and voting in the European elections.

Implementation and development of European citizenship

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Union citizenship is an evolving concept. The aim should be to encourage the EU Institutions to support these guidelines, which should eventually become legally binding.

These guidelines should be supplemented by easily accessible and understandable guides to European citizens' rights and standards which make an impact on people's every day lives. Examples include guides for:

- Travellers
- Consumers of good and services
- Particular groups in society

Such guides may be developed also in areas of policy, such as economic and monetary governance, the environment, the internal market services of general economic interest or cohesion policy.

In order to implement these guidelines, a senior European Commissioner should be appointed with responsibility for communication and all aspects of Union citizenship, rights and participation in the EU Institutions and policies to encourage a sense of belonging to Europe.

This is based on the observation that many day-to-day issues covered in secondary legislation may be as important, if not more so, than general texts derived from the Treaties or the Charter of Fundamental Rights.

In the Barroso Commission, the creation of the post for justice, fundamental rights and citizenship was a step in the right direction. A special Commissioner for citizenship is needed though. He or she should be well known, responsible for communication and backed by a strong legal team which can receive requests and complaints, and help coordinate the response across specialised departments. The Commissioner should have the rank of Vice-President.

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This is a stronger version of the current revision clause (Article 25 TFEU), which does not require either citizen involvement or even a proper legislative role for the European Parliament. Moreover unanimity is needed for decisions in the Council of Ministers instead of qualified majority voting under the ordinary legislative procedure. This is one of the few proposals in these guidelines, which involves a revision of the EU Treaties.

Participatory processes should be launched in all countries and across borders to involve citizens in the shaping of their own European citizenship. On this basis the European Commission should present a report representing citizens' views and demands, whilst taking into account the activities of the European Union in all policy areas and those of other European Institutions in particular the Council of Europe. Every three years this participatory process leading to the citizenship report is repeated. This report may lead to the addition of new European rights and programmes, which shall be adopted according to the ordinary legislative procedure.



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