

CONFERENCE  
OF THE REPRESENTATIVES OF THE GOVERNMENTS  
OF THE MEMBER STATES  
- POLITICAL UNION -

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(OR.es)

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R/LIMITE

ray/SMS/jl

NOTE

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from : Spanish delegation

dated: 20 February 1991

to : Intergovernmental Conference on political union

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Subject: European citizenship

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Delegations will find annexed hereto a text from the Spanish delegation on European citizenship.

*And finally approved  
originally intended by  
the French Government*

ray/sms/j1

ANNEX

SPANISH DELEGATION

INTERGOVERNMENTAL CONFERENCE ON POLITICAL UNION

EUROPEAN CITIZENSHIP

The text proposed by the Spanish delegation is based on the note on citizenship it submitted in SN 3940/90 of 24 September 1990, annexed in full hereto.

This proposal envisages a specific framework for the general aspects of European citizenship as one of the three pillars of the future Union and the foundation of its democratic legitimacy. The concept and content of citizenship are conceived of as having an evolving dimension and as being an element which should inform all the policies of the Union.

For these reasons, and bearing in mind the conclusions of the European Council meeting on 14 and 15 December 1990 in Rome, it is suggested that the Treaty include a Title specifically devoted to a general framework for citizenship.

No mention is made, although this is not ruled out, of possible specific treatments of citizenship in individual areas, some of which are already under examination in the Conference, particularly in the chapter on the extension of redefinition of jurisdiction, such as judicial co-operation, public health or the disclosure of information, to mention only a few of the abovementioned initiatives.

PREAMBLE

RESOLVED to lay the foundations for an integrated area serving the citizen, which will be the very source of democratic legitimacy and a fundamental pillar of the Union, through the progressive constitution of a common citizenship, the rights and obligations of which derive from the Union.

TITLE 0

[European] citizenship [of the Union] (1)

Article 1

1. Nationals of the Member States shall be citizens of the Union.
2. Citizens of the Union shall enjoy the rights and be subject to the duties laid down in this Treaty, which shall be additional to their rights and duties as citizens of a Member State.
3. The Council may decide unanimously on a proposal from the Commission, [after consultation of the parliaments of the Member States] and the assent of the European Parliament, to add rights and obligations over and above those laid down in this Treaty and to fix the detailed arrangements for applying this Title to persons who are not citizens of the Union.

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(1) The European Council meeting in Rome adopted the term "European citizenship". For the purposes of amending the Treaties it nonetheless seems preferable to coin the expression "citizenship of the Union."

*also placed  
in Annex of the  
fundamental rights.*

Article 2

1. The Union and the Member States shall undertake to respect fundamental rights such as are acknowledged in particular in the constitutions of the Member States and in the European Convention for the Protection of Human Rights and Fundamental Freedoms, which the Union endorses.
2. The Union shall lay down the conditions under which citizens of the Union and those who do not have such status may avail themselves of the rights guaranteed in the preceding paragraph.

Article 3

The Union shall carry out its activities taking special account of the need to facilitate the application and development of the rights and obligations of citizens referred to in Article 1 in accordance with progress made in the construction of European Union.

The Commission shall report regularly to the Council and the European Parliament on progress made towards attaining this objective.

Article 4

1. Every citizen of the Union shall have the right to enjoy equal opportunities and to develop his abilities to the full in his customary environment.
2. The Union shall, in implementing common policies and actions, take specific account of the objective set out in the preceding paragraph and shall contribute to its attainment by adopting the appropriate measures where necessary.

Article 5

All discrimination on grounds of nationality shall be prohibited in the application of this Treaty. The Union and the Member States shall ensure compliance with this prohibition.

Article 6

1. Every citizen of the Union shall have the right to move and reside freely and without limitation of duration in the territory of the Union.
2. Every citizen of the Union shall have the duty to comply with the laws of the Member State in which he finds himself.
3. He may not, through the exercise of his right to freedom of movement and residence, evade the duties which are incumbent upon him with regard to his State of origin or any other Member State <sup>(2)</sup>.

Article 7

Every citizen of the Union shall have the right to take part in the political life of the place where he lives, and in particular the right to belong to political associations or groupings and the right to vote in and stand for local elections and elections to the European Parliament.

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(2) The recognition and validity of obligations such as military or equivalent service performed in any country of the Union could in principle be provided for in an appropriate framework to avoid restrictions or limitations on the exercise of the right to freedom of movement and residence pursuant to this paragraph 3.

Article 8

Every citizen of the Union shall in the territory of third countries enjoy the protection of the Union and that of each Member State under the same conditions as the nationals of that State (3).

Article 9

In each Member State a Mediator shall be appointed whose task shall be to assist the citizens of the Union in the defence of the rights conferred upon them by this Treaty before the administrative authorities of the Union and its Member States and to invoke such rights before judicial bodies, on his own account or in support of the persons concerned.

The Mediators shall likewise have the task of making available to the citizens of the Union clear and complete information concerning their rights and the means of enforcing them.

The Mediators shall submit an annual report to the European Parliament (4).

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(3) This proposed Article should be understood as being without prejudice to the possibility that the protection of the citizen outside the Union be the subject of debate in the Intergovernmental Conference for Political Union in relation to the formulation of a common foreign and security policy.

Consideration should also be given to amending Article 220 of the EEC Treaty in such a way as to encourage the conclusion of agreements between the Member States aimed at protecting the citizens of the Union. Article 220 could read as follows: "... the protection of the citizens of the Union both within and outside its territory and the enjoyment and protection of rights under the same conditions as those accorded by each State to its own nationals; ...". This question could perhaps be addressed when intergovernmental co-operation is redefined.

To this end the passport of the Union would serve as the citizen's identification before the authorities of third States and would make possible the provision of diplomatic and consular protection and assistance.

(4) Consideration should likewise be given to two other possibilities, namely entrusting the functions referred to in this proposed Article to a European "ombudsman" as an independent organ of the Union or one answerable to the European Parliament, or reinforcing the actions of the national mediators with an ombudsman acting at European level.

Article 10

The Council, acting by a qualified majority on a proposal from the Commission and in co-operation [co-decision] with the European Parliament, shall lay down the implementing conditions provided for in Article 2(2) and shall adopt the measures referred to in Article 4(2) as well as those intended to facilitate the effective exercise of the rights laid down in Article 6, to determine the conditions for the exercise of the rights referred to in Articles 7 and 8 and to apply the provisions in Article 9.

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SN 3940/90  
ORIG. ES

24 September 1990 (26.09)

erd/AM/be

THE ROAD TO EUROPEAN CITIZENSHIP

I. Introduction

From its inception the Community has concentrated above all on creating a common area that is essentially economic, and this has had positive results for the activities of its businessmen but only a limited effect on the daily life of its citizens as such.

Although there have in recent years been a series of concrete initiatives and measures designed to give our citizens a higher profile in and more immediate benefits from Community action, the practical context has not made it possible to advance resolutely along the road to making the whole body of Community citizens the fundamental point of reference for Community successes and achievements. These initiatives and measures, excellent though they are, have not managed to go beyond the idea of "privileged aliens".

The move towards Political Union, including a common foreign and security policy and Economic and Monetary Union, radically changes the existing situation and requires the creation of an integrated common area in which the European citizen occupies a central and fundamental position.

On the way to European Union it is therefore necessary to establish a citizenship of European Political Union as "the personal and indivisible status of nationals of the Member States, whose membership of the Union means that they have special rights and duties that are specific to the nature of the Union and are exercised and safeguarded specifically within its boundaries, without dismissing the possibility that such a status of European citizen may also extend beyond those boundaries".

Since the concept of European Union is a dynamic one encompassing the idea of a process leading to a final objective, European citizenship is also a dynamic and evolving concept. The progress made towards the final objective of the Union will simultaneously add substance to the status of European citizenship. Any genuine Union will have to endeavour to overcome the inequalities which still exist today between Community citizens because they reside in different regions of the Community, and take specific steps to encourage greater economic and social cohesion in this particular respect.

The concept, content and development of European citizenship will have to be an important element in the series of institutional aspects to be discussed by the Intergovernmental Conference on European Union. Giving greater or lesser



content to the concept of citizenship will be closely determined by the actual scope of the Union which emerges as a result of the Conference. A genuine Union will logically require full-scale European citizenship. However, whatever the content of the Union which results from the Conference, it seems clear that as things stand it is already necessary to make a qualitative leap in establishing the status of European citizenship.

In the light of the above, the Conference should discuss the need to amend or supplement the Treaties in order to define and regulate at least the concept of citizenship and the "status civitatis" it involves as a set of rights, freedoms and obligations for the citizen of the European Union.

It is obvious, given the flexible nature of the concept, that not all aspects which make up European citizenship and on which there may be agreement at the Conference need necessarily be incorporated in amendments to the Treaties.

The Conference should also consider the need to provide uniform protection for the human rights and fundamental freedoms of persons resident in the Community irrespective of their nationality, although this is a matter distinct from and independent of the status of European citizenship.

## II. Content of European citizenship

The concept of European citizenship presupposes a third sphere of rights and duties in addition to the two which currently exist, viz.: the national sphere which derives from citizenship of the Member States and which it can not under any circumstances replace; and the Community sphere which results from the Treaties for nationals of a Member State of the Community.

This third sphere is the consequence of transforming the Community into a Union and involves, as we have said, a qualitative leap which will, inter alia, make the Community citizen who is at present little more than a "privileged alien" into a citizen of the European Union. This change will remove the negative effects of the alien status currently conferred on a national of one Member State residing in another.

Regarding the content of European citizenship, it seems clear that there are a series of rights, freedoms and obligations which can already be clearly defined, while others will continue to evolve gradually as the process of constructing Political Union progresses.

The general approach to reform could therefore be along the following lines:

(a) Basic special rights of the European citizen

The following three rights would seem to constitute the fundamental starting point in the sphere of rights of the European citizen: the right of full freedom of movement, the freedom to choose one's place of residence and the right to political participation at the place of residence. Freedom of movement, freedom to choose one's place of residence and the right of establishment are special rights resulting from the Treaties, even though the development and practical implementation of these rights should be widened and extended in the interests of all European citizens.

Political participation by the European citizen, which must begin with full recognition of the freedom of expression, association and assembly, should be gradually extended to include participation in the electoral processes of the country of residence.

In the case of political participation in elections to the European Parliament, this right would have to involve two processes: on the one hand, adoption of a uniform electoral procedure throughout the Community as indicated in Article 138(3) of the EEC Treaty; and on the other hand, gradual recognition of the right of all citizens to vote at their place of residence.

The difficulties which currently stand in the way of recognition of voting rights in local elections in the state of residence, as they have emerged in negotiations on the corresponding Directive, should be overcome in a gradual process leading to full participation when the dynamic development of the Community itself and of relations between the Member States means that the time is right. The ultimate aim of the right to political participation would have to be full electoral participation by the European citizen at his place of residence.

These three basic rights must form the starting point for any genuine human dimension in the Community and for the future development of a necessarily dynamic concept like European citizenship.

(b) Rights resulting from the dynamic development of the Union

Full development of the content of European citizenship, starting from the series of rights and duties which result from the Treaties and with the development of the basic rights referred to above, would occur in parallel with the transfer to the Community of new policies on e.g. social relations, health, education, culture, protection of the environment, consumption, etc.

This whole process should take the form of gradual acquisition of specific rights in these areas by the European citizen, who must be the compulsory point of reference for the activities of the Union.

It must again be said that the launching of these new policies and the

consequent benefits and rights depend on the actual model of Political Union which emerges.

(c) The European citizen outside Community frontiers

It is suggested that concrete measures could take the form of greater **diplomatic and consular assistance and protection** by Member States of each other's nationals so that a new relationship gradually emerges between the European Union as a whole and the European citizen as the holder of rights which arise from his "status civitatis" and are therefore specific to the Union.

Such protection and assistance would require the negotiation of corresponding agreements with third countries since both the Vienna Conventions and the individual bilateral Conventions in this area refer only to the protection of a country's own nationals.

To that end, the passport of the Union would serve as a means of identifying the citizen to the Authorities of third countries and make it possible to provide diplomatic and consular protection and assistance.

(d) Other possible ways of developing European citizenship

One suggestion would be to recognize the validity of obligations such as military or equivalent service carried out in any country of the Union.

(e) Safeguarding of European citizens

It would seem necessary for the development of the concept of European citizenship to be accompanied by provision for mechanisms to facilitate its practical functioning. That would include the need to provide for some form of safeguard at both national and Union level.

The European citizen, who already enjoys the right of petition through the Committee on Petitions of the European Parliament and who also has access to the Court of Justice in certain cases, could receive greater protection of his rights within the framework of the Union by submitting petitions or complaints to a European "Ombudsman" whose function would be to protect the specific rights of the European citizen and help to safeguard them.

The Ombudsman for European citizens could act through individual "Ombudsmen" or their equivalents in the various Member States.

III. Conclusion

The European Community's move towards Political Union and the practical conditions which currently obtain mean that an effort is needed to make the qualitative leap which can transform a hitherto essentially economic area into an integrated area which also directly serves the citizen.

European citizenship is one of the three mainstays of European Union together with Economic and Monetary Union and the common foreign and security policy. It is also fundamental if Political Union is to be made credible to European public opinion and an essential condition for guaranteeing the functioning and development of all aspects involved in that Union, since the European citizen is the foundation on which the democratic legitimacy of such a Union rests.

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