

NON - PAPER

Subject: Citizenship of the Union

1. Basic concepts

In the contribution submitted by the Spanish delegation (see Annex) the citizenship of the Union is defined as follows:

"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. Acquisition and loss of the citizenship would be coincidental with citizenship of one of the Member States."

The concept developed by the Spanish delegation is dynamic starting with the recognition of certain basic rights which result from the Treaties (including specific rights that might be introduced through the present revision of the Treaties) and rights that would be introduced in parallel with the transfer to the Community of new policies on e.g. social relations, health, education, culture, diplomatic protection in third countries etc.

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2. Method to be used for introducing rights of citizenship

Besides the inscription in the Treaty of the definition of citizenship the following instruments could be envisaged to give specific substance to the principle of citizenship of the Union:

a) Formulation of specific rights in the Treaty. These rights could possibly to be introduced over time according to a timeschedule or a procedure laid down in the Treaty. It might also be envisaged to establish a charter on rights of the citizens which would constitute a "catalogue" of rights to be implemented through legal texts at a later stage.

b) Formulation in the Treaty of an obligation by the Institutions to develop - in parallel with the development of the Union in a number of areas - specific rights of the citizens.

3. List of rights advanced in the discussion

The following examples have been advanced in the discussion:

a) Civic rights

The right to political participation at the citizens place of residence (wherever this might be in the Community) covering

1) full recognition of freedom of expression, association and assembly

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ii) right to vote at the place of residence and to be eligible for election to the European Parliament according to a uniform procedure for such elections

iii) the right to vote and to be eligible for election in local elections

iv) (ultimately) the right to vote and to be eligible for election in national elections.

(It should be noted that it would be difficult to lay down in the Treaty itself the specific provisions according to which some of these rights could be exercised, but it would be necessary to provide for a Community competence in these matters with a view to adoption of legislation in the future - P.M. draft legislation on the right to vote in local election and on the right to vote at the place of residence for elections to the European Parliament are on the table. Article 138 of the Treaty establishes the principle of a uniform electoral Parliament and lays down a procedure for its establishment).

b) Economic and social rights

- full freedom of movement, extending to all persons this right which under present Treaty provisions applies only to economically active persons (workers and persons covered by the provisions of the Treaty with regard to services and right of establishment)

- full rights of residence: extending to all persons this right which under present Treaty provisions (and the legislation giving more detailed effect to those provisions, notably in the field of social security) applies to economically active persons, subject to

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conditions. Under the directives recently adopted certain other persons are also granted a right of residence, subject to conditions which are more restrictive (particularly in the field of social security) than for economically active persons.

- equality of treatment as regards social legislation within a Member State for residents whether they are citizens of that Member State or another Member State (The Treaty and Community legislation assure in principle to a large extent this equality for economically active persons. Frequent cases brought before the Court however show that this equality is not ensured in all fields. The equality of treatment does not apply to non-active persons, cf. specific provision in this regard in the directives of right of residence)
- c) Right of the Union citizens outside Community frontiers
 - greater diplomatic and consular assistance and protection by Member States of each other's nationals

The working group on consular cooperation within EPC discuss practical means of insuring greater coordination and mutual assistance between Member States in this area. A more formalised extension of protection would require the negotiation of Member States' bilateral agreements with third countries as well as the modification of Vienna Convention, which refer only to the protection of a country's own nationals).

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Earlier discussion of the concept of citizenship has also touched upon the question of human rights.

The preamble to the Single Act already sets down the determination of the Community to promote democracy on the basis of the fundamental rights recognised in the Convention for the Protection of Human Rights and Fundamental Freedoms⁽¹⁾.

A similar reference could be introduced in the new Treaty. It would not seem appropriate to insert in the Treaty an elaborated list of human rights. (A simple reference to the Strasbourg convention does not prejudice the ongoing discussion on a possible accession of the Community to this Convention).

3. Obligations

It would seem difficult at the present stage of the development of the Community and in the perspective of the upcoming Conference to envisage any specific obligation for the beneficiary of the citizenship of the Union (going beyond his respect for national and Community law).

4. How should the right under the citizenship be protected ?

The basic protection would be assured through national courts and the European Court of Justice acting according to their respective competence

(P.m. : Right of petition to European Parliament and Ombudsman. See Non-Paper on these issues)

(1) A joint Declaration has been adopted on this matter by the European Parliament, the Council and the Commission.