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ON  
EUROPEAN CITIZENSHIP

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These briefings have been drafted by the Parliament Secretariat Task Force on the Intergovernmental Conference. Their purpose is to gather together, in an organized, summary form, the proposals and suggestions which the authorities in the Member States, the Union's institutions and specialist commentators have put forward on the issues likely to be on the IGC/96 agenda. Briefings will be updated as negotiations proceed.

Already out:

1. The Court of Justice
2. The Commission
3. The Court of Auditors, ESC and COR
4. Differentiated integration
5. The common foreign and security policy
6. The role of the national parliaments
7. The hierarchy of Community acts
8. Codecision procedure
9. CJHA
10. European citizenship
11. WEU, security and defence
12. Public services
13. Social policy
14. The European Parliament
15. The European Council
16. The Council of the European Union
17. The budget and the IGC
18. The IGC and transparency
19. Subsidiarity and the allocation of powers
20. The Union's legal personality and external representation
21. Comitology
22. Fundamental rights
23. The IGC and the democratic nature of the Union
24. The coherence of the external action of the EU under the first (Community) and second (CFSP) pillars
25. The 1996 IGC and the effectiveness of the Union
26. Europol
27. The IGC and the Schengen Convention
28. Combating fraud
29. Energy
30. Tourism and the IGC
31. Economic and social cohesion
32. European environment policy and the IGC
33. The common agricultural policy and the IGC
34. Civil protection
35. Ending sex discrimination
36. Enlargement of the EU
- 36a. Accession of CEECs - agricultural perspective
37. Employment and the IGC
38. The IGC and Economic and Monetary Union
39. Asylum and immigration policy
40. Social exclusion and the IGC
41. Children and the IGC
42. Fight against drugs and the IGC
43. The IGC and the fight against racism
44. Youth and the IGC

**BRIEFING  
ON  
EUROPEAN CITIZENSHIP**

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# **BRIEFING ON EUROPEAN CITIZENSHIP**

## **I. SUMMARY**

On November 1, 1993 with the entry into force of the Treaty on European Union, some 350 million Europeans acquired a new de jure citizenship status. This is because the Treaty on the European Union inserted into the EC Treaty a new article 8.

Through the Treaty on European Union the Member States therefore introduced a citizenship common to the nationals of their countries and designed to 'strengthen the protection of their rights and interests'.

Generally speaking, the issue of European citizenship is not addressed directly. It is approached more from the standpoint of fundamental rights which would enable greater substance to be given to the concept of citizenship, or of related topics such as transparency.

## **II. AGENDA FOR THE CONFERENCE**

The European Union is based on the principles of freedom, democracy, respect for human rights and fundamental freedoms, and the rule of law. The citizens of the Union rightly demand to be able to benefit fully from the freedom which the development of the Union has made possible and, at the same time, that their personal security be protected.

Articles 8a to 8e of the Treaty on European Union list a number of specific rights of citizens. Since citizenship is a developing concept, the Treaty made provision for the extension of citizens' rights. However, although the TEU does not formally provide for the revision of Article 8a to 8e at the 1996 IGC, the notions of citizenship, democracy, transparency and so forth will probably be discussed.

The European 'citizens' rights' listed in the TEU are:

- Article 8a: the right to move and reside freely within the territory of the Member States;
- Article 8b: the right to vote and stand as a candidate at municipal and European elections;
- Article 8c: the right to diplomatic or consular protection in third countries;
- Article 8d: the right to petition the European Parliament and to apply to the Ombudsman.

### III. POSITIONS

#### 1. European Parliament

##### 1.1. Resolution of 17 May 1995 on the functioning of the Treaty on European Union with a view to the 1996 Intergovernmental Conference

[...]

7. Greater substance should be provided for the concept of EU citizenship through development of the special rights linked to EU citizenship, notably by means of:

- accession of the Union to the Council of Europe's Convention on Human Rights and Fundamental Freedoms;
- a new right of all EU citizens to information on EU matters;
- inclusion of an explicit reference in the Treaty to the principle of equal treatment irrespective of race, sex, age, handicap or religion (including mentioning the fundamental social rights of workers set out in the Charter, enlarging upon them and extending them to all citizens of the Union); also incorporation of an article specifically referring to the ban on capital punishment;
- bringing together within a single article the economic rights that are scattered throughout the Treaty [...], and reinforcing these rights;
- the development of political citizenship, inter alia through measures that facilitate participation in political life in a Member State of Union citizens residing in that State;
- the strengthening of provisions needed to achieve fully the free movement of persons;
- the preservation of Europe's diversity through special safeguards for traditional national minorities in terms of human rights, democracy and the rule of law;
- the application of the provisions in the Treaty on equal rights not only to economic rights but to all aspects of equality for women.

In addition, the Treaty should contain a clear rejection of racism, xenophobia, sexism, discrimination on grounds of a person's sexual orientation, anti-Semitism, revisionism and all forms of discrimination and guarantee adequate legal protection against discrimination for all individuals resident within the EU.

8. In order to develop the means of expression for citizens at European level, Article 138a of the Treaty on European political parties must be applied and developed.

[...]

## **1.2. Opinion of the Committee on Legal Affairs and Citizens' Rights**

[...]

9. Union citizenship should be enhanced and should go considerably beyond the civic and electoral provisions now contained in the Treaty on European Union. European citizenship must imply that the European Union guarantees the protection of all fundamental rights contained in the European Convention on Human Rights and Fundamental Freedoms and the implementation of common policies in the fields of justice and home affairs. Third country nationals residing in the European Union should be able easily to attain European citizenship. [...]

## **1.3. Resolution on the agenda for the 1996 Intergovernmental Conference with a view to the Madrid European Council**

[...]

6. Urges the European Council to define a mandate for the IGC which takes account of the priorities established by Parliament in its resolution [of 17 May 1995] referred to above, namely:

- to give political substance to citizenship of the European Union, to ensure that citizens and social operators have genuine rights to be informed and consulted and real powers of control, and to guarantee respect for both fundamental rights and human rights;

[...]

## **1.4 European Parliament, resolution of 13.03.96 on the European Council in Turin**

[...]

C. Whereas it is absolutely vital for the IGC to meet the demands of citizens for a Europe with a better balance in its common policies, a comprehensive definition of European citizenship, an effective internal security police, a visible foreign policy serving the interests of peace, greater openness and transparency in the Union, more democratic and effective rules and procedures and transparent financial management that guards against frauds [...];

[...]

E. Whereas the “strengthening of social and economic cohesion” and the “introduction of a citizenship of the Union”, as provided for in Article B of the Common Provisions of the EU Treaty, cannot be achieved without strengthening the cultural dimension of the Union;

[...]

2.1 [...] (the European Parliament) reaffirms and reiterates its aforementioned resolution of 17 May 1995 as the basis of its position on the IGC; considers that there are a number of key priorities which need to be successfully tackled at the IGC if the outcome is to be worth ratifying:

[...] an improved definition of European citizenship and enhanced respect for human rights through extension of specific rights for European citizens within the Treaty, the strengthening of fundamental human rights and the principles of equal treatment [...]

4.1[...] European citizenship should have precise legal substance; the rights and obligations affecting European citizenship should be consolidated in the first chapter of the Treaty under the heading “ Declaration of basic rights and provisions governing the exercise of the rights of European citizens and residents” and such on the basis of the Declaration of fundamental rights and freedoms adopted by the European Parliament on 12 April 1989 (...); this new chapter in the Treaty should make it clear that European citizenship gives the citizens new rights and obligations towards the Union, and does not replace national citizenship but complements it.

### **1.5 European Parliament, resolution of 19.06.96 on the Florence European Council and the intergovernmental conference**

3. ( the European Parliament) believes that public concern is focused on all those subjects which are conducive to helping the Union on its way to constructively developing suitable solutions for the key areas of European policy: the institution of a genuine European citizenship,..., employment and social protection, transparency, the democratization and effectiveness of the institutions and the European Unions presence on the world stage[...];

### **1.6 Note to the President of the European Parliament and the Secretary-General on the views of the European Parliament in connection with the IGC and the current state of the negotiations**

Following the presentation by the Presidency of the general outline for a draft revision of the Treaties, and pursuant to the order of priorities drawn up at the outset in the European Parliament resolutions of 17 May 1995 and 13 March 1996, classified by subject in accordance with the terms of reference of the IGC contained in the conclusions of the European Council in Turin on 29 March 1996, the present situation, as regards European citizenship and fundamental rights can be broadly described as follows:

Introduction into the treaty of a **single chapter on European citizenship which also includes fundamental rights**. Currently there is only a consensus between the EP and the Member States on the non-replacement of national citizenship by EU citizenship. At the same time, the position of several Member States opposed to any strengthening of Union citizenship seems to be gaining ground.

Weakness according to the EP: The global approach which the EP wants is not really on the negotiating table. In addition, the only proposal to amend Article 8 involves no new rights and, in particular, there is a tendency towards the status quo as regards the present unanimity rule for adding to the rights of European citizens (Article 8e).

As regards the **development of political citizenship**, there is a division of opinion on the strengthening of European political parties, the right to vote in regional elections and stand as candidate. The status of European associations and extension of the right to petition the EP were also mentioned.

Weakness according to the EP: No results yet.



Conclusion: The Presidency's draft satisfies a number of EP demands in this area, but there are many more which are inadequate and incomplete, even ignored.

## **2. Council**

### **2.1 Report on the functioning of the TEU**

Bringing Europe closer to the citizen has proved necessary over the years and particularly during the TEU ratification procedures, to increase public support for European integration.

[...] The Council has taken the decisions necessary for the implementation of the Treaty provisions on Union citizenship, which grant the nationals of Member States additional rights and protections but without in any way replacing national citizenship. The necessary provisions have been adopted for the right to vote and the protection of citizens abroad.<sup>1</sup>.. The legal framework therefore exists, even though the benefit of these new rights is not yet totally effective for all the citizens.

8. In compliance with the deadlines laid down in Article 8b of the EC Treaty despite real difficulties, provisions have been adopted to ensure that in municipal elections and elections to the European Parliament every citizen is entitled to vote and to stand for election in the Member State where he resides, under the same conditions as nationals of that State. [...]

9. Article 8c of the EC Treaty provides that every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the consular authorities of any Member State, on the same conditions as nationals of that State. The conditions under which such protection is exercised have formed the subject of guidelines agreed between the Member States which, although still incomplete, mark an important step in the implementation of this right.

10. Article 138e of the EC Treaty makes provision for an Ombudsman, who would receive complaints from citizens concerning instances of maladministration in the activities of the Community Institutions or bodies. He shall perform his duties in complete independence and this must be maintained.

11. Article 8a of the EC Treaty confirms the basic principle that every citizen of the Union has the right to move and reside within the territory of any Member State. The actual implementation of this principle - closely linked with the idea of membership of the Union - has been widely put into effect by the Community, but the conditions are not yet all

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<sup>1</sup> It should be noted that on 25 April 1994, pursuant to Article 228(6) of the EC Treaty, the Council asked for the opinion of the Court of Justice on the compatibility with the EC Treaty of an agreement providing for accession of the European Community to the European Convention on Human Rights.

present for the principle of freedom of movement to be fully applied between all the Member States in complete respect for the security of the Union.

12. European citizenship as thus constituted is a developing process, Article 8e of the EC Treaty offering the possibility of supplementing the rights of the citizen.

## 2.2 Turin European Council of 29 March 1996

“A Union closer to the citizens”

The European Council has defined the Union's programme to the end of the century. The Intergovernmental Conference, which today begins considering the revision of the treaties with a view to creating an ever closer Union between the peoples of Europe, is the first step in this process.

The European Council asks the IGC to base its work on the fact that the citizens are at the core of the European construction: the Union has the imperative duty to respond concretely to their needs and concerns.

As the Member States are committed to respect for human rights, democratic values, equality and non-discrimination, and the Union is a community of shared values, the IGC should consider whether and how far it will be possible to strengthen these fundamental rights and improve the safeguarding of them[...].

In an area of free movement for people, goods, capital and services such as the Union, the exercise of these rights according to the Treaty provisions must be accompanied by adequate protection. A strengthened control of the Union's external frontiers shall contribute to it.[...]

In this context for the Union and the Member States the fight against unemployment is the priority task. The promotion of employment makes national structural and economic policies a matter of common interest.

The IGC could also address the question of the compatibility between competition and the principles of universal access to essential services in the citizen's interest.[...]

A healthy and sustainable environment is also a major concern for European citizens. The IGC will have to examine how to make protection of the environment more effective and consistent at Union level, in order to ensure sustainable development.

The IGC must ensure better application and enforcing of the principle of subsidiarity, to provide transparency and openness in the Union's work, and to consider whether it would be possible to simplify and consolidate the Treaties.

### **2.3 Report from Presidency to the Florence European Council of 17.06.96**

[...]

The Presidency considers it to be generally accepted that the Treaty should clarify the nature of the relationship between Union citizenship and national citizenship, making it clear that Union citizenship is additional to and not a substitute for national citizenship.

Suggestions have been made for enriching the content of citizenship by the addition of certain rights to those currently appearing in the second part of the EC Treaty.

Finally, in the Presidency's view, the initial discussions suggest that the procedure in the second paragraph of Article 8e of the TEC for adding to citizenship rights should be maintained.

### **2.4 Florence European Council of 21 and 22 June 1996**

Meeting in Florence on 21 and 22 June 1996, the European Council adopted its guidelines on citizenship and fundamental rights.

In this context, the European Council called on the Presidency to prepare a general outline for a draft revision of the treaties, aiming in particular to bring the Union closer to its citizens by:

- 'strengthening European citizenship, without replacing national citizenship and while respecting the national identity and traditions of the Member States;
- respecting their fundamental rights;
- meeting their need for security, which implies improving substantially the means and the instruments against terrorism, organized crime and drug trafficking, as well as the policies on all aspects of asylum, visas and immigration with a view to common judicial area in this context.'

[...]

### **2.5 Approach suggested by the Presidency on 8 October 1996**

On the question of citizenship, this document suggests an approach based as far as possible on textual proposals and taking account of the previous work of the representatives within the IGC.

This approach encompasses three elements:

- I the definition of the concept of citizenship of the Union
- II strengthening its content in the Treaty
- III the procedure allowing additions to the rights (Article 8e).

To clarify the nature of the relationship between citizenship of the Union and national citizenship, Article 8(1) of the ECT should be amended as follows:

**'[...] Citizenship of the Union is complementary to national citizenship and does not replace it'.**

Article 8b of the ECT could be amended to extend the benefit of this provision to local elections other than municipal elections. A provision could also be included giving European citizens the right to vote in any local referendums organized in a Member State.

Various other specific ideas to extend the actual content of the rights deriving from citizenship of the Union were examined by the representatives.

The possibilities are listed below for information:

- I - Right to set up political parties at European level.
- II - Creation of a European voluntary humanitarian service
- III - Right to ask the Union institutions directly to take measures
- IV - Right to education taking account of common European values.

Finally, the procedure provided for under Article 8e should be maintained as it stands.

## **2.6. General outline of the Presidency for a draft revision of the treaties (Dublin II).**

In this document, submitted on 5 December 1996 at the request of the European Council in Florence, the Presidency believes that 'making the Union more relevant and comprehensible to its citizens is a major aim which runs through the work of the Conference'.

The first section of the draft contains provisions on fundamental rights and non-discrimination, including a system of sanctions against states which systematically violate fundamental rights.

The second section deals with a number of issues affecting the citizens in their day-to-day life and influencing the way they see the Union, and proposes several amendments to the treaty.

'They want the Union to play the role which it must play in certain areas while leaving for action at the level of Member States matters which are more properly addressed at that level. Their citizenship of the Union complements and does not replace their national citizenship'.

### 3. Commission

#### 3.1. Report on the operation of the TEU

In its report the Commission believes that the first 'challenge' of the future Intergovernmental Conference is: 'to make Europe the business of every citizen'. For the Commission the Treaty objective of 'a Community closer to the citizen' is not a mere empty formula, but an overriding principle.

The Treaty makes citizenship an evolving concept'. The Commission recommends developing it to the full. Moreover, although the task of building Europe is centred on democracy and human rights, citizens of the Union have at this stage no fundamental text which they can invoke as a summary of their rights and duties.

The fundamental rights:

[...]

#### 1. The right to freedom of movement and residence

8. Citizens of the Union have not been given general rights of freedom of movement and residence, but subject to 'limits and conditions' laid down by Community law.

9. The Union citizens' right to freedom of movement must therefore be seen in the context of the establishment of the 'area without internal frontiers in which the free movement of ... persons ... is ensured in accordance with the provisions of this Treaty' (Article 7a, added by the Single Act).

[...]

#### 2. The right to vote and stand for election

11. All citizens of the Union residing in a Member State of which they are not nationals are now entitled to vote and stand as candidates in municipal elections and elections to the European Parliament. [...]

#### 3. Diplomatic and consular protection

Where the state of origin of a citizen of the Union is not represented in a third country, he/she can now rely on the protection of the diplomatic and consular authorities of the other Member States.

[...]

16. There are [...] provisos attached to putting this new right into practice. The 'guidelines' which are supposed to bring it about are merely non-binding instructions. They are also incomplete, as they only deal with consular protection, moreover without covering all the fields listed in the Vienna Convention on Consular Relations. In particular, these 'guidelines' have received little publicity, so that by and large the citizens of the Union are unaware of them. Lastly, there is no clear indication of how a citizen can avail him- or herself of this right to protection.

[...]

#### 4. Right of petition and appeal to the Ombudsman.

[...] The citizen's right to petition the European Parliament is now in the Treaty, while previously it was implemented through its Rules of Procedure. The possibility of appeal to the Ombudsman increases the citizen's capacity to react to any maladministration.

#### 5. Overall assessment

18. Generally speaking, the introduction of the concept of European citizenship, which does not replace but is in addition to national citizenship, carries immense potential. Its purpose is to deepen European citizens' sense of belonging to the European Union and make that sense more tangible by conferring on them the rights associated with it.

The most noteworthy and visible application of the concept is the right to vote and stand as a candidate in European and municipal elections. However, the ambitious notion written into the Treaty has not yet produced measures conferring really effective rights: the citizen enjoys only fragmented, incomplete rights which are themselves subject to restrictive conditions. In that sense, the concept of citizenship is not yet put into practice in a way that lives up to the individual's expectations.

The Commission thinks this gap must be filled, more especially since such an instrument would constitute a powerful means of promoting equal opportunities and combating racism and xenophobia.

### **3.2. Other Commission initiatives**

The Commission has also taken the following measures in areas relating to the concept of European citizenship:

- freedom of movement: proposals for implementing freedom of movement within the framework of Parliament's proceedings for failure to act (cf. statements made by Mr Santer before the European Parliament);
- economic and social rights of citizens: Commission initiative ('Putting citizens first') to inform citizens of their rights (employment, studies, residence, etc.) within the single market. (Cf. also the creation of a 'European Hotline on Health' (details in Santer note) encouraged by the Court.);
- civil protection: possibility of a Commission decision on a Community civil protection programme covering cooperation and mutual assistance in the event of fire, chemical accident, earthquake, etc.

### **3.3 Commission Opinion, 28.02.96**

#### **A people's Europe**

7. Ordinary people must feel actively involved. The concept of European citizenship enshrined in the Treaty on European Union complements national citizenship.

This concept of citizenship has many aspects; it should be developed further:

- it is based on European social model which guarantees that fundamental rights are recognized by all, and whose members are committed to mutual support;
- it provides for freedom of movement and establishment, to be enjoyed with a proper level of security;
- finally it implies that Europe must be understandable for the individual; successive amendments to the Treaties have made European integration increasingly complex; it must be made simpler and more democratic[...]

9. [...]The Union should signal its espousal of the values (human rights) even more clearly, either directly in the Treaty or in signing the Convention itself.[...]

The Conference should also incorporate in the Treaty provisions banning discrimination of any kind- particularly on the basis of sex, thereby extending the provisions on equal pay, and condemning racism and xenophobia.

### **3.4 Commission Report of 3 July 1996 on the scope of the codecision procedure**

The Commission considers that the extension of codecision is a natural step in the process of enhancing the democratic legitimacy of the Union, a constant of European integration. On purely democratic grounds, codecision should be extended to all the Community's legislative activity.

B. 1. This approach would mean using the codecision procedure in the following areas:

- citizenship (currently assent procedure, e. g. right to move and reside in other Member States, or consultation, e.g. right to take part in municipal elections and elections to the European Parliament), on the contrary the possible new rights; (Article 8e) would remain subject to the consultation procedure; [...]

Annex 3: New areas for codecision:

### **[...] Citizenship:**

- Measures to facilitate the right to move and reside freely- Article 8a(2).
- The right of every citizen of the Union to vote and stand at municipal elections in the Member State in which he resides- Article 8b(1)[...]

Finally, the Commission points out that extending the scope of the codecision procedure is also dependent on simplification. 'This point should also be examined by the Conference'.

## **4. Reflection Group**

### **Reflection Group's report**

The Reflection Group considers that one of the key elements, both to justify the reform of the Treaty and to ensure the success of the conference, is to place the citizen at the centre of the European venture by endeavouring to meet his expectations and concerns.

'Serving the citizens' interests and perspectives for the future should be the main guiding principle for the envisaged reform'.

Essential aspects of this task include respect for human rights and fundamental rights, non-discrimination, and clarification of the rights and obligations of both citizens of the Union and third-country nationals in the Union. Furthermore, citizens' concerns about security, employment, the environment, transparency and subsidiarity should be properly taken into account by the Union.

The Group notes that introduction of the principle of citizenship of the Union in Article B, third indent, of the TEU, and its development in Articles 8 to 8e was viewed differently in the various Member States. The broad majority of the Group is in favour of its development by means of a deepening of the specific rights of citizens of the Union already included in the Treaty (achieving unrestricted freedom of movement and residence, completing diplomatic and consular protection in third countries), the inclusion of new rights and the simplification of the articles of the Treaty which relate to citizenship. Citizens should be granted a specific right to information on Union matters and on how the Union functions. Other members of the Group maintain that citizenship of the Union is perceived as a threat to national identity in some Member States and do not think it appropriate to develop either the substance of the concept or the concept itself. However, the Group suggests that the Treaty should indicate in an even clearer manner that citizenship of the Union does not replace national citizenship.

Some members of the Group drew attention to the fact that abolishing the use of passports for the crossing of internal borders could help to enhance citizens' feeling of belonging.



The Group also discussed the idea of voluntary service involving the establishment of a European 'peace corps' for humanitarian actions. Some members proposed that the peace corps be given the task of helping Member States to deal with natural disasters.

Finally, the Group considers that 'the Union is not and does not want to be a super-state. Yet it is far more than a market. It is a unique design based on common values'.

## 5. Economic and Social Committee

In discharging its consultative duties and, inter alia, through the use of its right of initiative, the ESC has often guided and even encouraged the Commission to draft proposals to respond to the changing needs of European society. 'The Committee shall work together with the Commission in organizing consultations prior to the submission of proposals'.

In this context the ESC has proposed amendments to Articles 8a, 8b and 8e.

- Article 8a(2): the ESC proposes that the words '... and the opinion of the Economic and Social Committee' be added at the end.
- Article 8b(1): the ESC proposes that the words 'and the Economic and Social Committee' be added after 'the European Parliament'.
- Article 8e(2): the ESC proposes that the words 'and the Economic and Social Committee' be added after 'the European Parliament'

## 6. Member States

### 6.1. Belgium

In its '**Policy note from the government to parliament on the 1996 Intergovernmental Conference**' the government states its support for the idea of providing greater substance for the concept of citizenship by fleshing out the Treaty provisions relating thereto. It is prepared to consider certain proposals for the extension of citizens' rights, such as:

- accession by the European Union to the European Convention on Human Rights and other instruments defining fundamental rights and freedoms, or the inclusion in the Treaty of a catalogue of fundamental rights and freedoms;
- a limited extension of the list of rights and duties set out in the Treaty, to cover areas such as the fight against racism and xenophobia;
- introduction of a mechanism enabling penalties - including suspension of the membership of any Member State failing to fulfil its obligations in respect of democratic freedoms and human rights - to be imposed.

## 6.2. Denmark

In its '**Agenda for Europe**', the Danish Government says it is in favour of some fundamental rights being dissociated from the concept of European citizenship. This could possibly be enlarged upon by the incorporation of parts of the Declaration of Human Rights, particularly freedom of expression, the right of property and the right to a clean environment. Such rights could be included in the sections on social policy and employment or in a new chapter, or even in the section on European citizenship.

In a second document, entitled '**Bases for discussions at the 1996 Intergovernmental Conference**', the Danish Government says it is extremely important for the IGC to address the practical concerns of European citizens. The gap between the people and the Community must be closed. The Danish Government therefore intends to work towards bringing Europe closer to the people, achieving greater transparency and simplifying the Treaty. It goes without saying that the Edinburgh decision regarding inter alia European citizenship cannot be amended without Denmark's consent, and only then by referendum.

## 6.3. Germany

The report of the **Conference of Ministers of the Länder of 23 and 24 May 1995** states that European citizenship must be given greater substance by means of improvements in the following areas:

- fundamental rights, such as the right to information and the fight against racism, must be included in the Treaty;
- social security;
- administrative independence of municipalities;
- transparency;
- inter-regional cooperation.

The **discussion paper on furthering Community responsibility for policy in the field of justice and home affairs with a view to the 1996 IGC, published by the steering committee of the CDU/CSU Group in the Bundestag**, mentions the importance of democratic equality for all citizens of the Union in respect of the electoral law governing elections to the European Parliament.

Furthermore, fundamental rights must be standardized to the greatest possible extent in a 'people's Europe'.

As regards European citizenship, subsidiarity, democracy and transparency, the German Government also proposes that the subsidiarity principle be incorporated in a protocol annexed to the treaty.

#### 6.4. Greece

According to the document entitled '**Towards a People's Europe - democracy and development**', Athens believes in a citizens' Europe, and therefore opposes any notion of a two-speed Europe. Greece, it is stressed, will not accept any proposals contrary to the principle of equal rights and duties for all the peoples of Europe, particularly in the economic field.

In the document '**Towards a democratic European Union with a political and social content**' Greece says that the European Union has lost the trust of a broad fringe of European citizens, who have begun to question the process of European integration while disputing the value of some institutions, policies and procedures.

To regain the support of its citizens and national communities as a whole, the European Union would have to take measures contributing substantially to the resolution of their problems and allowing the citizens to play an active role in the process of integration. To this end, the revised treaty should contain provisions designed to:

- I - increase the references in the Treaty to European citizenship by stepping up in particular the catalogue of associated rights;
- II - strengthen and increase the protection of human rights and fundamental freedoms;
- III - add to the Treaty a catalogue of fundamental social rights as listed in the European Social Charter and the protocol on social policy;
- IV - introduce special provisions into the Treaty banning any form of discrimination and explicitly condemning racism and xenophobia;
- V - strengthen the Treaty provisions on equality between men and women and introduce new provisions covering special measures in favour of the disabled and other disadvantaged social categories.

#### 6.5. Spain

The memorandum entitled '**The 1996 Intergovernmental Conference: bases for a discussion**' establishes a link between citizenship of the Union and fundamental rights. The document sets out two options:

- either to extend substantially the catalogue of rights set out in the existing chapter on citizenship of the Union (Articles 8 to 8e) by incorporating, inter alia, an article on combating racism and xenophobia;
- or to draw up a charter of fundamental rights of citizens of the Union including, with a view to future enlargements, all the rights held to be fundamental in current European legislation, thus enabling them to be protected both by the Union institutions and those of the Member States.

In the document '**Elements of a Spanish position at the 1996 Intergovernmental Conference**' of 28 March 1996, as regards the issue of Union citizenship Spain is in favour of developing it by deepening the specific rights already provided for in the Treaty

(achieving unrestricted freedom of movement and residence, completing diplomatic and consular protection in third countries) and the inclusion of new rights, as well as by simplifying the Treaty articles relating to citizenship.

In particular, Spain considers the citizen should be accorded a specific right to information on the affairs and operation of the Union.

## 6.6. France

In a **'Memorandum on France's guidelines for the IGC'**, the French Government proposes that the priority should be consolidating the democratic basis of the European Union by bringing it closer to its citizens. In general it considers that the Unions must be more comprehensible for the citizen, to whose needs it should always be subordinated.

## 6.7. Ireland

In its White Paper on foreign policy: **'External challenges and opportunity'** of 26 March 1996, Ireland is in favour of reinforcing certain Treaty provisions on European citizenship, for example by introducing certain rights or anti-discriminatory provisions.

## 6.8. Italy

In its **'Statement on the 1996 Intergovernmental Conference'** the Italian Government maintains that individual citizens will understand the Union if it is built with their consent, if they grasp the aspects which affect them most closely and if they feel that their everyday lives are influenced by Community legislation with its rules and safeguards: freedom of movement and the single currency (the most familiar aspect of the economy, which people use to buy food and other daily necessities and which serves as the yardstick for work and production, wealth and poverty). Bearing in mind the lessons learned from the Maastricht ratification process, the new conference must base European integration on a clarity of purpose and close, ongoing contacts between individual citizens and the bodies representing them, starting with the national parliaments.

In the document **'Position of the Italian Government on the Intergovernmental Conference on revision of the treaties'**, Italy considers that as regards the aspects connected with relations between the citizens and the Union, one of the priorities must be the development of the 'citizenship' dimension of the Treaty by the inclusion of other civic and social rights, and affirmation of the fact that European citizenship is additional to national citizenship and does not replace it.

In this connection, the Italian Government and the Austrian Government submitted to the Group of Representatives to the Intergovernmental Conference (on 3 October 1996) a **Report** on citizenship, to amend the articles of the Treaty. (For description of these changes see Annex).

## 6.9. Luxembourg

In its '**Memorandum on the 1996 Intergovernmental Conference**' the Luxembourg Government calls for the preamble to the new treaty to refer explicitly to the protection of the human rights and fundamental freedoms of European citizens, equality between men and women and the fight against racism and xenophobia.

In this connection the Treaty must provide for the possibility of sanctions extending as far as the suspension of certain rights attached to membership.

## 6.10. Netherlands

In its report on '**Institutional reform in the European Union**' the Netherlands Government states that the European Union must adopt rules giving citizens extensive access to information together with appropriate means of redress.

Finally, in the '**Belgium, Netherlands and Luxembourg Memorandum for the IGC**', the Dutch Government considers that the European Union, its Member States and its institutions must protect human rights with sanctions in the case of violations.

## 6.11. Portugal

In an interview published in the newspaper 'Público', the Portuguese Prime Minister, Mr Cavaco Silva, said that the reform should focus on citizens' problems. He also put forward the idea of a citizens' charter establishing an area without internal borders with equal rights and duties for all Europeans.

In the document '**Portugal and the Intergovernmental Conference on revision of the Union Treaty**', Portugal considers that Union citizenship as created by the TEU is additional and complementary to citizenship of each Member State, without prejudice to the rights and responsibilities of every individual vis-à-vis his country of origin. The value of rallying the European citizens around the integration process seems to justify the increased importance accorded to Union citizenship during the revision of the Treaty, particularly as regards social and economic rights. The awareness of the fact that membership of the Union gives the citizens added value will no doubt contribute towards greater involvement on their part in the European project. For this reason Portugal supports the idea of providing in the revised Treaty for a European citizenship charter:

Portugal also believes it would be highly appropriate to strengthen the current provisions of the Treaty relating to human rights.

## 6.12. Austria

In its '**Guidelines on the probable topics of the 1996 IGC**' the Austrian Government expresses the view that Community responsibility for civil protection should be added to the TEU. In addition, the fundamental rights of Union citizens should be guaranteed, in particular as regards data protection (third pillar). Finally, the Austrian Government proposes that governments be required to investigate any action to combat racism and xenophobia and to draw up minimum requirements for protection against racist and xenophobic activities.

In the document '**Fundamental positions of Austria for the Intergovernmental Conference**' the Austrian Federal Government supports the idea of Union citizenship, but wishes to make changes to the Treaty articles on citizenship, since the objective of reinforcing the feeling of belonging to the Union (pursued by Articles 8a to 8e of the EC Treaty) has not been achieved to the degree expected. In this connection the Austrian Government and the Italian Government submitted to the Group of Representatives to the Intergovernmental Conference (on 3 October 1996) a contribution on Union citizenship.

According to the Austrian Government, some of the new specific rights provided for by Articles 8a to 8e of the EC Treaty (in particular right to vote and stand in municipal elections and elections to the European Parliament, and diplomatic and consular protection in third countries) were not substantive enough and the concept has such has not been successfully implanted in the collective consciousness.

Austria is open to the continued development of European citizenship. In this connection, measures to promote the full realization of freedom of movement should be considered. In parallel with the extension of existing rights, in reworking the text of the Treaty consideration should be given to bringing together the provisions which confer rights on the citizens and which currently appear in different parts of the Treaty, so that the concept of Union citizenship will gain in significance.

The Treaty should also state clearly that Union citizenship is merely complementary to nationality but is in no case a replacement for it.

## 6.13. Finland

In its '**Memorandum concerning Finnish points of view with regard to the 1996 IGC of the European Union**' the Finnish Government sees European citizenship as a means of promoting democracy and the rule of law in the Union and furthering unity in Europe. A clearer definition of the concept of European citizenship in the Treaty might provide a means of guaranteeing the principles of transparency, democracy, the rule of law, equality, social justice and respect for human rights.

Furthermore, the Conference should consider ways of extending the social rights and responsibilities of the European citizens. According to the Finnish Government, one key principle is that citizenship of a Member State is a pre-condition for Union citizenship.

In the **'Report of the Finnish Government to the national Parliament'** of 27 February 1996 regarding the positions of Finland in the run-up to the IGC, and in the order followed by the Reflection Group, the government first deals with citizenship of the Union. It deals first with the promotion of European values and makes reference first to fundamental rights.

As regards citizenship of the Union, the government is in favour of completing the existing provisions on the subject by introducing new rights associated with the concept of Union citizenship.

#### **6.14. Sweden**

In its **'Written statement to parliament'** the Swedish Government points out that the democratic structures lying outside the political sphere tend to be left out of the debate on a 'people's Europe'. Discussions on the issue of democratic legitimacy tend to be restricted to the breakdown of powers between the EU's political institutions and the governments and parliaments of the Member States.

Because of the Swedish Government's long tradition of openness, Sweden also believes that the most effective way of increasing the degree of openness and transparency in the European institutions is to give the citizens access to the documents forming the basis of the debates and decisions.

#### **6.15. United Kingdom**

In the United Kingdom White Paper on the IGC: **'An association of nations'**, as regards the issue of European citizenship, human rights and non-discrimination, the British Government does not think that the European Union is an appropriate for the maintenance of fundamental rights nor for the introduction of a general clause banning discrimination on grounds of sex, sexual orientation, race, religion, age or disability. In general terms, the British Government also expresses concern at the possibility that the creation of new rights would result in the need to establish reciprocal rights, something which in its view cannot happen given that the European Union is not properly speaking a state.

#### **6.16. Joint declaration by the German and Italian Foreign Ministers**

This declaration was issued following the meeting between the German and Italian Foreign Ministers held in Italy on 15 July 1995. With regard to citizenship, the declaration proposes the codification of fundamental rights and freedoms, whose safekeeping would be entrusted to the Court of Justice.

## **6.17. Joint declaration by the French President and the German Chancellor**

In this declaration, issued on 6 December 1995, the two parties state that, in general, the Union should be made easier to understand for individual citizens and more sensitive to their needs.

## **7. Council of Europe**

In its '**Memorandum on the 1996 Intergovernmental Conference** the Council of Europe tackles the issue of the role which European citizenship should play. The question is whether citizens' rights should be extended to third-country nationals, particularly with regard to:

- freedom of movement for persons;
- the ban on discrimination on the grounds of nationality;
- political rights at local level.

This issue must be considered from the standpoint of both legislative policy and existing law, with a distinction being made between:

- rights granted on the basis of international agreements to which the Community is a party;
- rights granted on the basis of international agreements to which Member States are parties;
- rights granted under unilateral national acts.

## **8. Institut für Europäische Politik**

### **Citizenship of the Union: options, recommendations and suggestions regarding the protection and extension of Union citizenship with a view to the 1996 Intergovernmental Conference on revising the Maastricht Treaty**

This study on citizenship commissioned by the European Parliament's Directorate-General for Research states that European citizenship is necessary, in that the European Union is already well integrated and decisions taken by the European institutions affect individual citizens. None the less, although increasingly affected by Community decisions, these citizens still have a nationalistic approach to national matters.

Although many still feel that European citizenship 'is lacking in content', one cannot ignore the possible benefits of stronger provisions on European citizenship:

#### 1. Amending and extending existing citizens' rights

- unrestricted freedom of movement and residence;
- right to vote in elections to all public bodies;
- enhanced right of petition;



- Community legal guarantee and introduction of minimum rights to consular protection.

## 2. Introducing new rights

- right of access to information;
- right of assembly;
- freedom of association;
- referendums;
- right of initiative;
- right to a hearing;
- protection of minorities;
- obligation to provide protection;
- social security statute/Union social security passport;
- equal treatment regarding recruitment, work and vocational and in-service training;
- right to assistance when looking for a job.

## 3. Introducing citizens' duties

## 4. Amending and establishing other individual rights

- access to the courts;
- European charter of fundamental rights.

## 5. Other proposals

- granting of certain citizens' rights to legal persons;
- lessons on European citizenship in schools;
- possible extension of rights deriving from citizenship of the Union to nationals of third countries.

There are three possible ways of incorporating these new elements into the Treaty:

### 1. Minimalist strategy - procedure set out in Article 8e of the EC Treaty:

This could consist of strict compliance with the procedures set out in Article 8e of the EC Treaty. Parliament's proposals for the introduction of new rights or the extension of existing rights would in this instance be treated as a suggestion that the Commission use its right of initiative under Article 8e in accordance with the wishes expressed by Parliament.

An alternative to this procedure would be an initiative by Parliament under the procedure provided for in Article 138b, which would give this subject a certain symbolic value and, furthermore, prompt the Commission to submit its proposals within an acceptable time frame.

## 2. Maximalist strategy - procedure set out in Article N of the TEU:

The European Parliament could attempt to add to the agenda for the Conference the topic 'European citizenship', or simply 'citizens' rights', together with new rights in the form of coordination and extension of existing rights in the amended treaty.

At the same time, during the negotiations priority could be given to some of the new elements. Two sets of proposals should thus be given priority treatment:

- those proposals whose main aim is to explain and clarify existing rights, on which it should be easier to reach a consensus;
- those proposals designed to strengthen citizens' rights to take part in the democratic process; the consolidation of such rights should help to close the gap between the Union and its citizens.

## 3. Step-by-step strategy:

As with the procedures in the other areas of the Treaty (for example, completion of the common market) an attempt could be made to reach a consensus at the Intergovernmental Conference on a general concept of Union citizenship, which would simply lay down the main principles and the objectives to be attained on the basis of a pre-determined timetable.

## 9. CEPS

### **Preparing for 1996 and a larger European Union: principles and priorities**

There are no formal plans for the inclusion of this topic on the agenda for the 1996 IGC. It should be discussed at the conference however, because this would increase public interest in how the EU institutions operate and because the enlargement of the EU to take in the CEECs provides the opportunity for a debate on the appropriateness of incorporated a declaration of human rights.

One further issue should be considered: Article F makes respect for democratic principles a criterion for accession to the EU. What would happen if, following a change of government, a Member State were to infringe these principles? What steps would the EU take? Economic sanctions? Military action (by analogy with the American Civil War in the 19th century)? Or expulsion? Such questions cannot be avoided.

## 10. Federal Trust

### **Building the Union**

The EU should accede to the European Convention in order to give greater substance to the guarantee that citizens' rights will be enforced. The need for accession is all the more

urgent in view of the fact that enlargement of the EU will bring in a number of countries which have had a questionable human rights record in the past. Like the current Member States, such countries must be profoundly convinced that the EU is founded on strict respect for human rights.

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