



Committee of the Regions

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**76th plenary session
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**OWN INITIATIVE OPINION
of the
Committee of the Regions
on
CITIZENS' RIGHTS: PROMOTION OF FUNDAMENTAL RIGHTS
AND RIGHTS DERIVED FROM EUROPEAN CITIZENSHIP**

THE COMMITTEE OF THE REGIONS:

- emphasises the significant role played by the Charter of Fundamental Rights, a cornerstone of the process of guaranteeing fundamental rights and a crucial point of reference for the definition and interpretation of the rights which the EU is required to respect and highlights the specific function of the Charter of Fundamental Rights as an instrument at the service of all individuals;
- emphasises that the exercise of the rights arising from citizenship also involves the obligation to comply with certain "duties" as regards local and regional communities;
- insists on the responsibility of all levels of governance to help build a "culture of fundamental rights" by raising citizens' awareness of their rights; emphasises the need therefore for a joint campaign promoting citizens' rights, with such promotion constituting an integral part of the European Commission's information and communication policy; and is of the view that in this connection, specific resources must be channelled and actions planned with the effective involvement of local and regional authorities;
- intends to build upon the existing fruitful inter-institutional cooperation on fundamental rights, confirmed at the seminar in Reggio Emilia in September 2008, and will consider seriously the Commission's proposal to organise a joint yearly event highlighting the citizens' oriented approach to fundamental rights and benchmarking at different levels of governance;
- reiterates the request for a representative of local and regional authorities to take part in the agency's Management Board;
- calls on the Commission systematically to invite the President of the Committee of the Regions to take part in the work of the Group of Commissioners on Fundamental Rights, Anti-discrimination, and Equal Opportunities, which issues policy guidelines and monitors the consistency of initiatives in this field.

Rapporteur: Sonia Masini (IT/PES), President of the Province of Reggio Emilia

Reference document

Report from the Commission - Fifth Report on Citizenship of the Union
(1 May 2004 – 30 June 2007)
COM(2008) 85 final

I. POLICY RECOMMENDATIONS

THE COMMITTEE OF THE REGIONS

General comments

1. points out that the Treaty on European Union acknowledges that the Union is founded on the principles of freedom, democracy and the rule of law, as well as on respect for personal rights and the fundamental freedoms common to the constitutional traditions of the Member States and guaranteed by the European Convention for the protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950;
2. emphasises the significant role played to date by the Charter of Fundamental Rights of the European Union, proclaimed on 7 December 2000 in Nice by the Parliament, the Council and the Commission, in highlighting the importance and scope of the rights laid down in it; although so far not legally binding, the charter is a cornerstone of the process of guaranteeing fundamental rights and a crucial point of reference for the definition and interpretation of the rights which the EU is required to respect;
3. highlights the unique position held by the charter among the instruments on human rights, insofar as it brings together in one single text the universal personal rights (civil and political rights) derived from the historical development of the rights of freedom and integrity of the person in Europe, as well as the economic and social rights derived from Europe's experience of establishing a "social market economy", together with a number of highly innovative provisions (such as rights of older and disabled people) relating to the European welfare model;
4. highlights the specific function of the Charter of Fundamental Rights as an instrument at the service of all individuals;
5. is therefore pleased that, with the entry into force of the Treaty of Lisbon, the Charter of Fundamental Rights, in the amended version adopted on 12 December 2007 in Lisbon, should become legally binding; points out in particular that it would have "the same legal value as the Treaties", which, as stipulated by the European Court of Justice, form the European Union's "constitution";
6. points out that, although the rights derived from citizenship represent a major step forward, difficulties persist regarding their application (Fifth Report from the Commission on Citizenship of the Union); in particular, many communities feel distanced from the EU institutions, and this feeling must be fought and overcome; stresses in this connection that regions and local authorities can make a contribution in this area as well by acting as a bridge between the institutions and the public;

7. stresses that fresh impetus must be infused into the promotion of the Charter of Fundamental Rights, with a view to its becoming legally binding; therefore, a campaign of European civic education could be undertaken, particularly in educational establishments; in relation to this, stresses the role of the regions and local authorities, including the dissemination of information, the exchange of experiences and project ideas;
8. notes that while the Union guarantees universal rights to anyone (whether a European citizen, from a third country or stateless) who falls under its jurisdiction, it attributes specific rights to "European citizens" with whom there is the special link of citizenship;
9. points out that universal fundamental rights and the rights of EU citizens must be recognised and applied not only by the EU institutions and bodies, including the CoR, but also by national authorities and regional and local authorities;
10. recalls the principle laid down in the preamble to the Charter of Fundamental Rights, whereby the common values of the EU must be developed while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels; is pleased with this explicit reference to regional and local autonomy and grassroots democracy;
11. points out that under the Treaty establishing the European Community, EU citizenship involves duties as well as rights;
12. draws particular attention to the duty of EU citizens to comply with the laws of the EU and of the State in which they reside and to respect the cultures of other people;
13. notes that many of the rights laid down in the charter refer to powers largely devolved in a number of EU States to local and regional authorities (for example, areas such as education, healthcare and environmental protection, social policies, housing policy, local police and transport), or concern issues of general importance for all public authorities (good administration, transparency and access to documents; the rights of children, older and disabled people);
14. therefore emphasises that fundamental rights must be protected at various levels and is pleased with the reference to this principle made in the context of the drafting of the European Parliament's Catania report on the situation of fundamental rights in the European Union;
15. emphasises that it is primarily at regional and local level that citizens come into contact with the public administration and make use of administrative structures and services;
16. points out that the promotion of human and citizens' rights requires active policies: a right becomes "active" only when objective conditions so permit;

17. notes that, in this connection, the Union must pursue its policies for stronger economic, social and territorial cohesion; welcomes the fact that the Treaty of Lisbon includes "territorial cohesion" among the objectives of the European Union;
18. welcomes the adoption of the Protocol on services of general economic interest, appended to the Treaty of Lisbon, underlining the importance for citizens of organising services which are efficient, accessible to all and close to individual needs, as well as the essential role and the wide discretion of regional and local authorities in organising, providing and commissioning such services;
19. points out that, in accordance with the Charter of Fundamental Rights, the Union respects cultural, religious and linguistic diversity; welcomes the reference in the Treaty of Lisbon to the respect for cultural and linguistic diversity among the Union's objectives, subject, of course, to the established democratic rules;
20. draws attention to the key role of non-governmental organisations, the natural partners of local and regional authorities, in the full application of individual rights;
21. notes that local and regional authorities, being close to citizens and their needs and views, have the most immediate and realistic understanding of the application of the rights laid down by the Union and consequently emphasises the potential role of the CoR as an observatory monitoring the concrete conditions for the application of such rights, and calls on the Commission and the European Parliament to capitalise on this potential role by ensuring that when acts are adopted they reflect regional and local authorities' interpretations of situations;
22. calls on the Commission systematically to invite the President of the Committee of the Regions to take part in the work of the Group of Commissioners on Fundamental Rights, Anti-discrimination, and Equal Opportunities, which issues policy guidelines and monitors the consistency of initiatives in this field;
23. notes the adoption of Decision 2007/252/EC establishing the specific programme on fundamental rights and citizenship for the period 2007-2013 and calls on the Commission to involve it in the review of the programme for the period 2014-2020;

Universal personal rights

24. reiterates that the principle of respect for fundamental personal rights is central to all EU action, such rights deriving from the constitutional traditions common to the Member States, the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations, the European Convention on Human Rights and the other conventions adopted at international level (in particular within the United Nations) and ratified by the EU Member States;

25. notes that the European model for the protection of fundamental rights, as set out in particular in the charter, is amongst the most advanced since it incorporates civil and political rights as well as economic, social and cultural rights, and is based on its own order and system of values which, in the area of universal rights, respects diversity and dialogue between different cultures, religions and beliefs within the scope of the rules established by the democratic European systems;
26. draws attention to the possible tensions which might arise between the respect for the individual right to privacy and the guarantee of other fundamental rights such as security, and calls for this issue to be discussed in greater depth, taking into account the experiences of local and regional authorities and their key position as regards the protection of data stored by them regarding resident citizens;
27. emphasises that the Union must also promote democracy and human rights in third countries and, in this connection, refers to the opinion on the 2007-2010 strategy paper on the European instrument for democratisation and human rights (EIDHR), for which Heini Utunen was rapporteur;
28. reiterates the need to respect fundamental rights and the rule of law in the context of policies to establish an area of freedom, security and justice and in parallel, points out that the Union must thus guarantee a high level of security for citizens;
29. is pleased that the Treaty of Lisbon does away with the Union's pillar structure and that, in consequence, actions in the field of the area of freedom, security and justice are made subject to the general rules for EU policies, in particular as regards the judicial review performed by the Court of Justice;
30. welcomes the innovative measures set down in the Treaty of Lisbon, which enhance the European Parliament's role in framing, implementing and assessing policies for the area of freedom, security and justice, and recognise the role played by national parliaments in the mechanisms for assessing the results achieved in this field;
31. intends to build upon the existing fruitful inter-institutional cooperation on fundamental rights, confirmed at the seminar in Reggio Emilia in September 2008, and will consider seriously the Commission's proposal to organise a joint yearly event highlighting the citizens' oriented approach to fundamental rights and benchmarking at different levels of governance;
32. is pleased that the European Union's Fundamental Rights Agency has been established and has launched its activities;
33. confirms that both the Committee of the Regions and local and regional authorities wish to play an active role in the work of the Fundamental Rights Agency and its multi-annual programming, and is pleased with the forms of cooperation already underway;

34. reiterates the request for a representative of local and regional authorities to take part in the agency's Management Board;
35. would be pleased to cooperate with the agency, by collecting and disseminating good practices and particularly significant experiences for the protection and promotion of fundamental rights at local and regional level, or forwarding relevant data collected at local and regional level;
36. stresses that local and regional authorities are in a unique position to play an active role in the promotion of the rights of children, as well as to help monitor the conditions for the enjoyment of these rights;
37. recalls that it has pointed out that local and regional authorities play a key role in the application of the fundamental rights of women and the principle of equal opportunities for all;
38. emphasises, with particular reference to migrant women, that integration means sharing and respecting the fundamental rights and duties of the individual, which are part of the European legal *acquis*, and reiterates the importance of reception policies founded on the recognition of cultural diversity stemming from people's freedom of choice (CdR 396/2006);
39. stresses that the media have an important role to play in publicising infringements of human and civil rights, but that they should also publicise good practices and particularly significant experiences in safeguarding human and civil rights;

Rights deriving from EU citizenship

40. points out that, as stipulated by the European Court of Justice, citizenship constitutes the fundamental status of the individual, a political player in the process of European integration;
41. is therefore pleased that the Treaty of Lisbon enshrines the general provisions on EU citizenship in the new Treaty on European Union, specifically in the title containing provisions on democratic principles, which reiterates the principle whereby decisions shall be taken as openly and as closely as possible to the citizen (grassroots democracy);
42. deplores the fact nonetheless that there is no explicit reference to the key role played in this respect by local and regional authorities;
43. stresses that freedom of movement and residence is of key importance among the rights attributed by European citizenship, being a contributing factor in enhanced mutual knowledge between EU communities;

44. notes the progress achieved in implementing this freedom, thanks to the adoption and entry into force of Directive 2004/38 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States;
45. urges Member States to work together to ensure security for citizens and fight crime;
46. strongly emphasises, inter alia in light of the experience of applying Directive 2004/38, the fundamental responsibilities assumed by local and regional authorities in connection with the management of problems relating to the movement and in particular the residence of European citizens. This refers not only to the administrative formalities and practices inherent in residence but also and particularly to reception policies;
47. deplores the fact therefore that the Fifth Report from the Commission on Citizenship of the Union makes no reference to the special responsibilities of local and regional authorities as regards reception;
48. recalls that under Directive 2004/38, EU citizens other than workers or self-employed persons have the right to reside in a State other than the State of which they are nationals, provided they are not a problem for or a burden on the social assistance system of the host Member State and, for periods longer than three months, provided they have sufficient resources for themselves and their family members as well as comprehensive sickness insurance cover in the host Member State;
49. notes the European Court of Justice's interpretation of these conditions and underlines the impact of this interpretation on the responsibilities of local and regional authorities as well as the financial burdens which may result;
50. points out that the national authorities have the right and duty to combat abuse of the rights conferred by the directive and fight fraud, as in the case of fictitious marriages or partnerships or illegal behaviour;
51. welcomes the Commission initiative to promote knowledge of the new rules set out in Directive 2004/38, including the publication of the Guide to Directive 2004/38/EC, and calls on the Commission to capitalise on the special position of local and regional authorities which enables them to act as channels for the dissemination of such information;
52. emphasises that the exercise of the rights arising from citizenship also involves the obligation to comply with certain "duties" as regards local and regional communities;
53. stresses the importance of the right of European citizens to vote and to stand as candidates in the Member State in which they reside, in both local and European Parliament elections;

54. stresses in this respect that local political institutions reflect a "European" electorate, and are thus the first truly European governmental bodies;
55. is pleased with the increase in turnout for European Parliament elections by EU citizens living in a State other than their State of origin, but expresses concern about the gradual overall decline in turnout for European elections;
56. reiterates its call for information and education activities concerning European elections to be stepped up, capitalising fully on the strengths of local and regional authorities;
57. reiterates its interest in the development of European political parties (CdR 280/2004) and highlights the key role that should be played by local and regional elected representatives with reference to the functioning of these parties and the framing of associated strategies, inter alia in order to establish a link between the various tiers of government (European, national, regional and local);
58. is pleased that the Treaty of Lisbon makes it possible for EU citizens, numbering not less than one million and nationals of a significant number of Member States, to take the initiative of inviting the Commission to submit legislative proposals;
59. stresses the fundamental role assumed by the European Ombudsman, inter alia in the light of experience, with a view to redressing cases of maladministration on the part of EU institutions and bodies;
60. is pleased that citizens are now able to submit petitions to the European Parliament and complaints to the Ombudsman electronically;
61. recalls that EU citizens in the territory of a third country in which the Member State of which they are a national is not represented are entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that Member State, and emphasises the importance of such a provision as a point of principle, insofar as it is intended to acknowledge an external dimension of EU citizenship;
62. shares the Commission's view regarding the inadequacy of the Community *acquis* in the field of diplomatic and consular protection, welcomes the presentation by the Commission of an action plan for the period 2007-2009 with the aim of developing the *acquis*, and calls on the Council and Member States to adopt the actions needed in this respect, inter alia at international level;
63. on this subject underscores the powers and experience of local and regional authorities in this area (such as tourism, health policy, burial and cremation) and therefore urges the EU institutions to consult the CoR when framing and adopting decisions in this area;

64. is pleased that the Treaty of Lisbon acknowledges the international personality of the Union and hopes that the Union may also protect citizens at international level;
65. notes the data set out in the Fifth Report from the Commission on Citizenship of the Union (1 May 2004 – 30 June 2007), according to which EU citizens would like to be better informed about their rights, but in fact less than one third of them feel that they are well informed about the rights deriving from EU citizenship;
66. insists on the responsibility of all levels of governance to help build a "culture of fundamental rights" by raising citizens' awareness of their rights; emphasises the need therefore for a joint campaign promoting citizens' rights, with such promotion constituting an integral part of the European Commission's information and communication policy;
67. is of the view that in this connection, specific resources must be channelled and actions planned with the effective involvement of local and regional authorities.

Brussels, 9 October 2008.

The President
of the Committee of the Regions

Luc Van den Brande

The Secretary-General
of the Committee of the Regions

Gerhard Stahl

III. PROCEDURE

Title	Report from the Commission - Fifth Report on Citizenship of the Union (1.5.2004 – 30.6.2007)
Reference	COM(2008) 85 fin
Legal basis	Art. 265 (5) of the EC Treaty
Procedural basis	
Date of Council referral/Commission letter	
Date of Bureau decision	4.3.2008
Commission responsible	Constitutional Affairs, European Governance and the Area of Freedom, Security and Justice (CONST)
Rapporteur	Sonia Masini (IT/PES) President of Reggio Emilia
Analysis	DI CdR 18/2008
Discussed in commission	12.6.2008
Date adopted by commission	12.6.2008
Result of the vote in commission	Majority
Date adopted in plenary	9.10.2008 (unanimity)
Previous Committee opinions	Opinion on the Fourth Report on Citizenship of the Union and the Communication from the Commission on the Fundamental Rights Agency (CdR 280/2004 fin) ¹ Resolution of the Committee of the Regions on The approval of the Charter of Fundamental Rights of the European Union (CdR 381/2000 fin) ²

¹ OJ C 31, 7.2.2006, p. 6–10.

² OJ C 144, 16.5.2001, p. 42.