

CONST-008

Brussels, 13 December 2002

OPINION

of the Committee of the Regions

of 21 November 2002

on

The Third Report from the Commission on Citizenship of the Union

(COM(2001) 506 final)

and

A Report from the Commission to the European Parliament and the Council on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections

(COM(2002) 260 final)

The Committee of the Regions,

HAVING REGARD TO the decision of its Bureau of 12 March 2002, under the fifth paragraph of Article 265 of the Treaty establishing the European Community, to instruct its Commission for Constitutional Affairs and European Governance to draw up an opinion on this subject;

HAVING REGARD TO the Third report on citizenship of the Union (COM (2001) 506 final) and the report from the Commission to the European Parliament and the Council on the application of Directive 94/80/EC on the right to vote and to stand as a candidate in municipal elections (COM (2002) 260 final);

Having regard to the text of the Charter of Fundamental Rights of the European Union proclaimed by the European Council at Nice on 7 December 2000;

Having regard to the proposal adopted by the European Commission for a Directive on the Right of Citizens of the Union and their family members to move and reside freely within the territory of the Member States (COM(2001) 257 final);

HAVING REGARD TO the European Parliament's report on the third Commission report on citizenship of the Union (C5-0656/2001);

HAVING REGARD TO the report of the European Parliament on the proposal for a Directive on the Right of Citizens of the Union and their family members to move and reside freely within the territory of the Member States (Report reference not yet available);

HAVING REGARD TO its opinion of 16 February 2000 on the Process of drawing up a Charter of Fundamental Rights of the European Union (CdR 327/1999 fin)¹, its resolutions of 20 September on the Charter of Fundamental Rights of the European Union (CdR 140/2000 fin)² and of 13 December 2000 on The approval of the Charter of Fundamental Rights of the European Union (CdR 381/2000 fin)³;

HAVING REGARD TO its opinion of 13 March 2002 on the proposal for a European Parliament and Council Directive on the Right of Citizens of the Union and their family members to move and reside freely within the territory of the Member States (CdR 287/2001 fin)⁴;

HAVING REGARD TO its draft opinion (CdR 121/2002 rev. 1) adopted on 4 October 2002 by the Commission for Constitutional Affairs and European Governance (rapporteur: **Mr Vesey** (IRL-EA), Member of Cavan County Council and the Border Regional Authority)

adopted unanimously the following opinion at its 47th plenary session, held on 20-21 November (meeting of 21 November):

THE COMMITTEE OF THE REGIONS' VIEWS

The Committee of the Regions:

1. General remarks

1. **Welcomes** the Third Report from the Commission on Citizenship of the Union and the Report from the Commission to the European Parliament and the Council on the application of Directive 94/80/EC on the Right to Vote and Stand as a Candidate in Municipal Elections.
2. **Agrees** that the third report should, in addition to covering the years 1997, 1998, 1999, also deal with the proclamation of the Charter of Fundamental Rights, and the adoption by the Commission of the proposal for a Directive, on the right of Citizens of the Union and their family members to move and reside freely within the territory of the Member States.
3. **Agrees** that citizenship of the Union shall compliment and not replace national citizenship and that nationality of a Member State is the only way to acquire citizenship of the Union.
4. **Underlines** that European citizenship is an essential part of the debate on the future of Europe that is currently underway, in particular within the European Convention, as highlighted in the Laeken declaration.
5. **Welcomes** the establishment of the multiannual Community programme, Daphne, which fights all forms of violence against children, young persons and women. The participation of local and regional authorities in the DAPHNE programme will ensure

that the programme will assist those most at risk.

2. **Freedom of movement**

1. **Welcomes** the proposed Directive as a contribution to European citizenship.
2. **Urges** the European Commission to tackle the outstanding issues affecting the rights of citizens in the Directive as outlined in detail in the recommendations of this opinion.
3. **Welcomes** the finalization of the legislation transposing the Directive in the Member States and shares the concerns of the Commission in relation to the long drawn-out infringement proceedings with consequent effects on the Union Citizens.
4. **Urges** that in future, where problems arise, that every effort be made to resolve the problems as quickly as possible in order that the non-national citizens of the Union are not deprived of their rights.
5. **Agrees** with the Commission on the need to improve the provision of information to the public about the extent of their rights in the area of free movement.
6. **Supports** the recommendations of the European Parliament and of the Council on mobility within the Community for students, persons undergoing training, young volunteers, teachers and trainers adopted on 25 June 2001 and of the Resolution from the Council on an Action Plan for mobility on 14 December 2000.
7. **Urges** the European Parliament and the EU Council to encourage, facilitate and support mobility for the purposes of education, training and research and to remove remaining obstacles to mobility as quickly as possible, in particular those regarding the recognition of the equivalence of educational qualifications.
8. **Supports** the call on Member States to devise strategies to incorporate the aspect of transnational mobility into their National Policies for the groups targeted by the recommendation.

3. **Consular protection**

1. **Welcomes** the fact that, in practice, all of the Member States have taken steps to ensure that their diplomat and consular representatives afford appropriate protection and assistance to citizens of the Union who have no representative in a third country.
2. **Urges** all Member States to incorporate in their National Legal Order, without further delay, the decision on the practical arrangements to be made by consular officials Decision 96/409/CFSP on the rules for issuing emergency travel documents; and particularly since the right is a fundamental right under the Charter of Fundamental Rights of the Union.

4. **Right of petition and the European Ombudsman**

1. **Notes** that the two reports herein discussed conclude that the Union Citizens are not aware of their rights or of the powers of the Union or its institutions. This lack of knowledge which results from communication problems and the failure of the relevant available information to reach the EU Citizen, is the reason for the high proportion of petitions to the EU Parliament and complaints to the Ombudsman being declared

inadmissible. These matters are addressed in this opinion.

5. **Information and communication**

1. **Stresses** the need to promote EU citizenship within education policies, starting with primary levels firstly.
2. **Welcomes** the new Communication from the Commission on an information and communication strategy for the EU (COM(2002) 350 final) and reiterates the need for further investment in EU-wide communication and information strategies to promote knowledge among citizens of their rights, especially EU citizenship. The burden to communicate information and prevent the spread of mis-information on the EU should be shared between the local, regional, national and EU levels of government.

6. **The right to vote and to stand as a candidate in municipal elections**

1. **Stresses** the necessity for all Member States to participate in the information gathering process to ensure that the position in the whole of the Union territory can be assessed and regrets if the local and regional level were not involved in this process.
2. **Welcomes** the report findings that the National Transposition measures have been completed in all Member States but calls for further reports on transposition to involve the CoR.
3. **Welcomes** the fact that the Commission, in assessing compliance of the National Transposition Measures with the Directive, found that the quality of the National Legislation satisfactory and the measures are in conformity with the requirements of the Directive. Urges that when cases of non-conformity have been opened, that early resolution is sought, and that all the relevant details are communicated to the other Member States for the information and guidance of the other Member States.
4. **Supports** the principles embodied by the Directive: non-harmonization of Electoral Law and the abolition of the Nationality requirement, freedom of choice to take part and equal access to electoral rights under the same conditions as nationals.
5. **Agrees** with the Commission that in assessing whether the provisions of the Directive are properly applied, account must be taken of the practical results of the provision of information and its effects on the participation of Union citizens in municipal elections.
6. **Welcomes** the fact that non-national EU citizens stand for election and have been elected.
7. **Would suggest** that lack of the availability of information to non-national EU citizens is only one of the reasons for low participation rate and other factors should be investigated viz. the day on which the poll is held, the opening hours of the polling station, other methods of voting other than attending at a polling station.
8. **Welcomes** the fact that no specific problems have arisen in the Member States as a result of the increase in the electorate.

7. **The Committee of the Regions' recommendations:**

The Committee of the Regions

Free movement

1. **Recommends** that in relation to Chapter 1, Article 4 that the wording be amended in line with the Charter of Fundamental rights so as to make the list not exhaustive:

*" Member States shall give effect to the provisions of this Directive without discrimination on grounds **such as** sex, race, colour, ethnic or social ... "*

2. **Recommends** that the definition of "family member" as in Article 2(2) paragraph b, will include unmarried partners who have a status equivalent to that of married partners in the Member State of origin.
3. **Suggests** that the provisions in the Directive be clarified to restrict the free movement and right of residence of those convicted of offences such as paedophilia, domestic violence and soccer hooliganism. In Chapter VI information on those persons who represent a threat to society must be communicated from the Member State of origin to the host Member State. Furthermore under Article 6 (5), the requirement to report presence within at least 15 days should not apply in such cases, but rather report immediately on arrival in the host Member State.
4. **Would like to see** more discretion and greater flexibility being given to Member States in relation to the application of Articles 12 and 13 of the Directive to non-national EU citizens who are widowed, separated or divorced spouses of non-national EU citizens. The CoR feels that the current proposal (Art. 7. 1. (b)), is discriminatory on the grounds of income. Other factors, to be determined by the Member States, should be considered, such as (1) length of the time in the host member state, (2) Length of time solely dependent on the spouse, (3) Effects of break-up of family on other family, like students, (4) Disruption to family life. Would like to see provisions on the independent right of residence of third-country nationals in the event of the death of, or divorce from, an EU citizen brought into line with the relevant provisions in the proposed directive on the right to family reunification. An independent right of residence should only be granted in cases of particular hardship. Furthermore, the granting of an independent residence permit is at the discretion of the Member States.
5. **Suggests** that the four-year continuous residency which qualifies a non-national EU citizen for permanent right of residence should be clearly defined, and should not include periods where that citizen was incarcerated on conviction for criminal activities.

Charter of Fundamental Rights

6. **Urges** Member States to abide by the objectives set out in the Charter of Fundamental Rights and reiterates its call to formally incorporate the Charter in the Treaties.
7. **Suggests** that the European Union and the Member States take appropriate measures to make the Charter of Fundamental Rights together with an explanatory note on the Charter readily available to every citizen free of charge.

EU citizenship

8. **Suggests** that in order to improve the awareness of the Union's Citizens of their rights and of the powers of the Union and its institutions, the following should be considered:
 - Televised information campaigns.
 - Incorporate the words “European Union – Know your Rights” and phone number of Europe Direct Call Centre on all publicity hoardings for projects financed by the European Union.
 - Information literature through schools and other educational institutions, all national, regional and local bodies, hospitals etc.
 - Innovative direct marketing campaigns (logo on postmarks - Europe Direct Call Centre phone number).
 - Details to be provided on Web Site – Europe Direct Call Centre.
 9. **Suggests** that Member States in issuing passports, incorporate contact details of the European Direct Service.
 10. **Requests** that the CoR is involved in future information campaigns on municipal elections to promote the rights of EU citizens and be more involved in the European Commission's information and communication policy. On the basis of the cooperation protocol between the Commission and the CoR, a way could be found to work together to ensure better communication with the citizens.
 11. **Recommends** that the Commission establish a working group including representatives from the CoR to investigate how the concept of EU citizenship at national, regional and local levels is promoted in each Member State, and provide strategic guidelines on how the concept could be better disseminated.

Right to vote and stand as a candidate in municipal elections

12. **Suggests** that as a way of informing non-national EU citizens of their voting rights, the literature which the host state sends to non-national EU citizens eligible to vote should be in the official languages of the Community, where it is economic to do so. Furthermore all official correspondence with non-national EU citizens should include details of contact numbers, for information on their voting rights.
13. **Recommends** continuation of the initiative of testing electronic voting in cases of municipal elections.

14. **Suggests**, that where registration is in effect, the compilation of a single register and relevant supplements which include both national and non-national EU voters for use at all types of elections or polls, with a distinguishing mark, letter, or other symbol as determined by the Member State, opposite the name of non-national EU voters, indicating the various elections at which the person is eligible to vote. This in turn will facilitate the compilation of statistics on the registration of non-national EU citizens, without compromising rights to privacy.
15. **Suggests** that national, regional and local authorities be called on to play a more active roll in identifying and informing non-nationals of the procedure for registration and voting entitlements.
16. **Recommends** that Member States which do not have automatic entry onto the register, make provision, if such provision does not already exist, to facilitate application for and entry to the electoral register in cases where qualified voters have not been included in the original register. It will be a matter for each Member State to determine the provisions which are most suited to the Member State.
17. **Recommends** that Member States assist the elderly, disabled, students, employees and those who may not be in a position to exercise their right to vote at the polling station allocated to them on the day of the poll, by providing them with the facility to vote by other ways.
18. **Recommends** that this be developed as priority with a view towards 2003 as the European Year for the Disabled.
19. **Suggests** that the derogation mechanism will be of particular relevance in light of the proposed enlargement of the EU.
20. **Recommends** that following the accession of the next group of candidate countries and following their transposition into national law of the Directive and its application in municipal elections, a further report on the application of the Directive 94/80/EC be compiled. This second report would be useful in the evaluation of trends following their accession.
21. **Considers** that in addition to the questionnaire, an independent working group should be established to see what action is being undertaken in Member States to promote registration and turnout of non-national EU citizens. In the spirit of the cooperation protocol with the European Commission, the CoR should be involved in all stages of the drawing-up of this report and in the working group.

Brussels, 21 November 2002.

The President

The Secretary-General

of the

of the

Committee of the Regions

Committee of the Regions

Albert Bore

Vincenzo Falcone

¹ OJ C 156, 6.6.2000, p. 1

² OJ C 22, 24.1.2001, p. 1

³ OJ C 144, 16.5.2001, p. 42

⁴ OJ C 192, 12.8.2002, p. 17

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CdR 121/2002 fin EN/O

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