Please find hereafter the presentation by "European citizens and their associations" (ECAS), given at the public hearing on 27 April 2000.
Presentation by ECAS to THE HEARING FOR NGOS ON THE DRAFT CHARTER on fundamental rights

ECAS is an advice service for European citizens and their associations. As part of the “Dialogue with citizens” project, our team of lawyers has handled over 30,000 questions from ordinary people about their rights to live and work in the EU. You can find with us the evidence of how Europe is not working properly for citizens in the areas of recognition of free movement, social rights and professional qualifications. We have also carried out discussion groups and research on European citizenship.

There is much rhetoric in the discussion of rights. We hope that the convention will keep in mind the concerns of ordinary people. There is a need to reaffirm European citizenship. All too often there is a clash between the expectations to which this concept gives rise and what happens in practice when Member States’ administrations apply the exceptions rather the spirit of Community law. How can the 16 year old German girl denied access to a training course in France because of her nationality, or the aid worker facing an expulsion order from Belgium, or the teacher waiting five years for her qualifications to be recognised in Spain take the concept of European citizenship seriously? It is vital therefore for the convention to address how effective mechanisms for advice, conciliation and access to justice can be developed nationally and at EU level. The charter should hold out tangible benefits to people.

We would like to make three points referring in particular to the proposed articles on the rights of citizens (doc. Charte 4170/00, convent 17) and a fourth point concerning relations between the Charter and the European convention on human rights:

1. The need for a focal point on European citizenship

Why since Maastricht has citizenship of the Union remained a cinderella concept? One reason is that in the Treaties and hence in the administrative and committee structures of the Institutions the notion of citizenship is atomised and responsibilities scattered. The charter could therefore provide a focal point by bringing together and strengthening in a single text all EU provisions relating to European citizens. The convention, in articles A to J, is making progress on grouping together different aspects of the citizen’s relations with the EU Institutions and political rights. More needs to be done in the area of freedom of movement in the broadest sense where there is only one article proposed, letter J, thus neglecting other Treaty provisions on free movement of workers, recognition of qualifications and access to employment in the public sector.
For example, the right to diplomatic and consular protection was included in the draft list of fundamental rights proposed on 27 January 2000 but appears to be forgotten so far in the draft articles. The Commission and European Parliament have often called for a regrouping of all articles relating to European citizenship and free movement, whilst the report of the high level panel chaired by Simone Veil of March 1997 called for a single Commissioner.

2. **The need to develop the concept of European citizenship**

The convention should also come forward with ideas to develop European citizenship, since article 18 of the Treaty recognises that it is an evolving concept. In response therefore to your question “Where rights are reserved for citizens alone, should there be a general clause to the effect that such rights may be extended to third country nationals?”, our reply is “yes”, but subject to certain conditions such as legal residence in a Member State for five years or over. Why in an internal market and a global economy does the EU allow its own citizens to live and work in other Member States, whilst keeping third country nationals locked in separate national economies? And there are other issues here too. By accepting Article 18 as it stands with its apparently innocuous phrase “subject to the limitations and conditions laid down”, the convention would be endorsing an economic, 19th century concept of citizenship whereby EU citizens without sufficient resources may be expelled from another Member State. The EU’s own concept of citizenship is at variance with other Treaty provisions on non-discrimination and fighting social exclusion. Free movement is easier for those in employment than for job seekers, trainees or students. If all EU citizens were given a one year unrestricted residence right, many problems could be resolved.

3. **The need to solve problems and make rights enforceable**

People expect European citizenship to mean that the EU Institutions have a responsibility to deal with their problems, and are transparent and accountable. The convention is responding to this demand, but the draft articles remain rather general, and could address as follows, some more specific and legitimate grievances:

- One could add to the principles of democracy in Article A that “deliberations of a legislative nature in the Institutions are held in public” which is true in this house but not in the Council of Ministers.

- One could also add to Article E “citizens of the Union have a right to be informed of their European rights and duties and of the policies of the Union”, which is really a precondition to having any relations with the administration.

- The right to be heard and receive a response should be defined (i.e. not exceeding one month) and also applied to the particular issue to which the ombudsman has drawn attention, i.e. the accountability of the Commission to complainants;
In this report, we would propose an amendment to strengthen the rights of the citizen as follows:

“Every natural of legal person has the right to address a complaint to the European Commission and to be informed of the action taken, or of the reasons why the Institution considers that no action should be taken. If the absence of action has no legal grounds, the plaintiff with a legitimate interest may bring the matter directly before the European Court of Justice”.

This sanction does not mean that we are in favour of litigation per se. On the contrary we know that people are extremely reluctant to go to court, and we believe that the convention should also reflect the mood both of the public and ministries of justice in favour of quick, inexpensive and effective alternative dispute resolution.


For the last 10 years, like other NGOs we have been demanding that the EU should adhere to the Council of Europe convention on the protection of human rights and fundamental freedoms. Citizens should have the same right of appeal in relation to EU decisions as they have in relation to their own governments and courts. Today we would probably go further. The Council of Europe has enlarged rapidly, some would say too rapidly, with the risk of erosion of its human rights “acquis”. It is also the traditional meeting place of EU members and applicant states. The convention should not only recommend the Treaty changes and protocols necessary for the EU to join, but also how to strengthen and modernise the Council of Europe’s human rights machinery and provide for sanctions to ensure that the decisions of the Strasbourg Court are enforced. There is often a case for strengthening Institutions which exist rather than creating new ones, which in this case would simply add to the widespread confusion about the role of the different European and International Courts.

Finally, there can be no true citizenship based solely on rights without the other side of the coin – responsibilities - and we do not find this reflected yet in the draft.
SUMMARY OF THE ECAS POSITION
ON EUROPEAN CITIZENSHIP AND FUNDAMENTAL RIGHTS

1) Every person holding the nationality of a member state and/or legally resident in the European Union for over five years should be able to acquire certain European citizenship rights.

2) The Union should accede to the European Convention for the protection of human rights and fundamental freedoms and its protocols.

3) Every person should be guaranteed protection against discrimination on whatever grounds including age, disability, race, religion, sex and sexual orientation. Positive discrimination to ensure equal rights should be allowed.

4) The Union should have action programmes which cover the issues of social rights, access to services, safety, health and the environment. There should be particular attention to vulnerable groups in society.

5) Citizens of the Union have a right to seek work and reside freely anywhere in the Union without internal border controls and a common external frontier. An action programme should seek to eliminate the visible and hidden barriers to exercising these rights.

6) Every citizen of the Union residing in another Member State should have the right to vote and stand as a candidate in all elections and to participate in referenda.

7) Citizens of the Union should have the right to associate freely and establish European associations or foundations across borders to make their voice heard by the Union institutions.

8) Citizens of the Union should have a right to be informed of the Union’s policies whilst enjoying freedom of access to documents and the legislative process.

9) Every natural or legal person should be able to hold the Commission accountable to respond to complaints in addition to the right to petition the European Parliament or apply to the Ombudsman.

10) Every person, or association acting on their behalf, should be able to defend their European rights in a tribunal and be able to appeal to the European Court of Justice if other remedies are exhausted.
New .eu Domain

Changed Web and E-Mail Addresses

The introduction of the .eu domain also required the web and e-mail addresses of the European institutions to be adapted. Below please find a list of addresses found in the document at hand which have been changed after the document was created. The list shows the old and new address, a reference to the page where the address was found and the type of address: http: and https: for web addresses, mailto: for e-mail addresses etc.

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