



**2018/2111(INI)**

21.11.2018

# **OPINION**

of the Committee on Petitions

for the Committee on Constitutional Affairs

on implementation of the Treaty provisions related to EU citizenship  
(2018/2111(INI))

Rapporteur: Notis Marias

PA\_NonLeg

## SUGGESTIONS

The Committee on Petitions calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Recalls that Union citizenship, as established by Article 20 TFEU, in addition to granting the rights mentioned therein, namely to move and reside freely within the territory of the Member States, to vote and to stand as candidates in elections to this Parliament and in municipal elections in their Member State of residence, to enjoy consular protection by another Member State, if necessary, and to petition and to turn to the European Ombudsman in any of the Treaty languages, also has extended implications and confers rights in the field of democratic participation, as derived from Articles 11 TEU and 24 TFEU, and Chapter V of the Charter of Fundamental Rights of the European Union, among other legal bases;
2. Considers that EU institutions should enhance efforts to ensure greater effectiveness of the enforcement of the electoral rights of Union citizens with a view to effectively tackling the problem of diminishing voter turnout; highlights the fact that electoral laws in many Member States remain complex or discriminatory, and on occasion place excessive hurdles in the path of the exercise of the right to vote or directly prevent it, particularly in the case of EU citizens who have exercised their right to free movement, estimated to amount to 15 million people; calls on the Commission to follow up on the disenfranchisement of EU citizens living in another Member State, and to propose concrete actions to protect their political rights; urges the Commission to call on the Member States to actively uphold best practices which help EU citizens to vote in and stand for elections to the European Parliament pursuant to Article 22(2) TFEU, including the publication of electoral laws at least one year before EU elections, the combating of fake news and any populist rhetoric, and the promotion of education and media pluralism; believes that the public and private media should air MEPs' views in a way that ensures objectivity and pluralism;
3. Recalls that the Court of Justice of the European Union (CJEU) has been contributing to the progressive development of the notion of citizenship to the point where certain aspects have gained relative autonomy through the lens of the European constitutional setting; recalls that Article 20 TFEU precludes national measures that have the effect of depriving citizens of the Union of the genuine enjoyment of the substance of the rights conferred by virtue of their status as citizens of the Union<sup>1</sup>;
4. Recalls that according to Article 17 TEU, the appointment of the President of the Commission needs to take into account the result of the elections to the European Parliament; underlines the political importance and symbolism of this figure in terms of EU citizenship, and considers that the President of the next Commission should be proposed by the European Council from among the 'Spitzenkandidaten' who can gather more support overall within the different groups of the European Parliament;
5. Strongly believes that the principle of non-discrimination is a cornerstone of European

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<sup>1</sup> Judgement of the Court (Grand Chamber) of 8 March 2011, *Gerardo Ruiz Zambrano v Office national de l'emploi (ONEm)*, C-34/09, ECLI:EU:C:2011:124.

citizenship and both a general principle and a fundamental value of EU law according to Article 2 TEU; stresses, in particular, that Article 10 TFEU prohibits discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation when defining and implementing policies and activities; recalls that Article 21 of the Charter of Fundamental Rights also prohibits discrimination on these grounds, as well as on the grounds of genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, or birth; recalls that the Race Equality Directive (2000/43/EC)<sup>2</sup> introduced prohibition of discrimination on the basis of race or ethnicity in the context of employment; recalls that the Gender Equal Access to Goods and Services Directive (2004/113/EC)<sup>3</sup> and the Gender Equality Directive (2006/54/EC)<sup>4</sup> guarantee equal treatment only in relation to social security; regrets the fact that the Directives are still not being implemented more than 10 years after the deadline for their transposition;

6. Regrets the fact that the Anti-discrimination Directive implementing the principle of equal treatment outside the labour market, extending protection against discrimination with a horizontal approach, still remains blocked by the Council, a decade after the publication of the Commission proposal; believes that the upcoming Council presidencies should strive to deliver a position on the Directive by the end of the mandate;
7. Reiterates the outcomes of the public hearing held by the Committee on Petitions in June 2017 on ‘Restoring Citizens’ Trust and Confidence in the European Project’, which underlined, inter alia, the need to render the EU decision-making process and institutions more open and transparent for all Union citizens; believes that citizens’ direct participation in and full transparency of all stages of the EU decision-making processes are essential to enhancing citizens’ democratic rights and countering the democratic deficit at EU level; insists that by credibly leading the fight against corruption the Union would make a crucial step, not only in ensuring good administration in all Member States and protecting taxpayers’ general interests, but also in reinforcing its image as such in the eyes of EU citizens; considers that the EU should be exemplary and apply the highest standards to prevent any conflicts of interest, also with regard to the appointments to relevant posts in the EU institutions and agencies; regrets recent episodes of revolving doors by Commissioners that undermine the perception of the Union in the eyes of public opinion;
8. Recalls that, in order to ensure the effective implementation of Union law by Member States as regards all citizenship rights deriving from the Treaties, in particular the right to free movement, it is incumbent upon the Commission to fully pursue its obligations under Articles 258-260 TFEU as the guardian of the Treaties; urges the Commission to use all the tools and mechanisms at its disposal to this end; emphasises the importance of rendering Union decision-making and enforcement activities more effective and

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<sup>2</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, OJ L 180, 19.7.2000, p. 22.

<sup>3</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, OJ L 373, 21.12.2004, p. 37.

<sup>4</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, OJ L 204, 26.7.2006, p. 23.

visible in order to ensure that public perceptions of the EU by Union citizens are better informed;

9. Refers to its resolution of 12 December 2017 on the EU Citizenship Report 2017: Strengthening Citizens' Rights in a Union of Democratic Change<sup>5</sup>, which underlines, among other things, that these rights and obligations enshrined in the Treaty cannot be limited in an unjustified manner by the Member States; underlines that the successful exercise of citizenship rights presupposes that all rights and freedoms enshrined in the Charter of Fundamental Rights are upheld by the Member States;
10. Invites all European institutions to fight against the 'blame Brussels' phenomenon by which Member States place the responsibility for decisions they have taken themselves as members of the Council on the European Union; calls on the Council for greater transparency in its decision-making processes;
11. Calls for the incorporation of gender mainstreaming and a gender perspective in all evaluation and assessment processes in relation to current legislative texts and future proposals on citizenship;
12. Recalls the contribution of political parties at European level to 'forming European political awareness and to expressing the will of the citizens of the Union' (Article 10 (4) TEU); calls, therefore, for individual citizens of the EU to be given the opportunity to directly apply for membership in political parties at European level;
13. Considers the exercise, pursuant to Article 22(1) TFEU, by Union citizens of electoral rights at municipal level to be crucially linked to the right to free movement and Union citizenship; holds that participatory democracy at EU level would be rendered more effective by adopting truly democratic governance able to guarantee full transparency, effective protection of fundamental rights, direct involvement of citizens in the EU decision-making processes and the inclusion of EU citizens' priorities in the EU political agenda; believes that participatory and direct democracy tools must be strengthened also in order to increase the political involvement of citizens in local and national communities; urges the Commission, in that regard, to further best practices also with a view to promoting higher voter turnout in municipal and local elections across the Union, in particular through education, awareness-raising of the importance of local elections, information on the rights of EU citizens in this area, and direct promotion of participation in such elections; recognises that the current situation by which citizens of some Member States lose their right to vote in national elections in their country of origin, while also not being entitled to vote in the national elections of their country of residence, must be addressed; maintains that this disenfranchisement of EU citizens is incompatible with their Treaty right to fully participate in the democratic life of the Union;
14. Recalls that the right to petition, pursuant to Article 227 TFEU, represents a formal channel for citizens to communicate directly with the EU institutions, to highlight the shortcomings and inconsistencies of EU law in respect of the goal of ensuring that economic, social and cultural rights are fully protected, and to signal the incorrect application or transposition of Union law by national authorities; notes that while

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<sup>5</sup> OJ C 369, 11.10.2018, p. 11.

citizens across the Union are aware of the right to petition, there is a persisting lack of effectiveness by the EU institutions in addressing and solving the problems brought to their attention by citizens through petitions; calls for the EU institutions to adopt an effective strategy aimed at ensuring the full protection of citizens' fundamental rights and to improve cooperation efforts with national, regional and local authorities, especially in the policy areas which garner the highest number of petitions, namely: the environment, fundamental rights (notably voting rights and rights of the child), the free movement of persons, social affairs and employment, discrimination and immigration;

15. Emphasises that the right to petition the European Parliament is a fundamental component of Union citizenship; reiterates that, pursuant to Article 227 TFEU and Article 44 of the Charter of Fundamental Rights, any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to petition; recalls the important link between the petition process and the monitoring and enforcement activities of the Commission pursuant to Articles 258-260 TFEU; calls for all EU institutions as well as Member States to promote the provision of information and education on the right to petition among all Union citizens as a tool for fostering participatory democracy and increasing civic engagement; stresses that full accessibility of EU institutions and the content of their policies, also by digital means and for persons with disabilities, is imperative;
16. Stresses the importance of the right of every Union citizen and any natural or legal person residing or having its registered office in a Member State to address, pursuant to Articles 24 and 228 TFEU, the European Ombudsman with complaints concerning instances of maladministration in the activities of EU institutions, in particular as regards the right to access public documents; calls for greater awareness-raising among all Union citizens of this right, both by EU institutions and Member States; notes that the recourse of citizens to an open, efficient and independent European administration remains essential to the effective exercise of this right, in line with Article 41 of the Charter of Fundamental Rights; recalls Article 1 TEU, which stipulates that decisions should be taken as closely as possible to the citizen; recalls the crucial contribution of the office of the European Ombudsman to increasing the overall transparency and openness of the EU decision-making and legislative processes, thereby supporting active participation by Union citizens therein and increasing their trust; fully endorses, in this context, the European Ombudsman's recommendations in strategic inquiry OI/2/2017/TE on the transparency of legislative discussions in the preparatory bodies of the Council of the EU;
17. Suggests a revision of Regulation 1049/2001<sup>6</sup> on access to documents in order to enhance this right enjoyed by EU citizens and civil society;
18. Strongly believes that transparency is an essential ingredient of the rule of law, and that ensuring that it is observed throughout the legislative process affects the effective exercise of the right to vote and the right to stand in elections as well as other rights, such as the right of freedom of expression and, in particular, its aspect of the freedom of speech and the right to receive information; considers also that nurturing active European citizenship necessitates creating a margin for public scrutiny, review and

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<sup>6</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

evaluation of the process and the prospect of challenging the outcome; underlines that this would contribute to citizens' gradual familiarisation with basic concepts of the legislative process and promote the participatory aspects of the democratic life of the Union;

19. Considers that multilingualism within the institutions and in their interaction with citizens is an essential aspect of reinforcing the notion of EU citizenship; calls for more efforts to be made in ensuring as much as possible the availability of official documents beyond the three working languages;
20. Encourages Member States to give greater prominence to political education on EU affairs, inter alia on EU citizens' rights, in their school curricula and to adapt teacher training accordingly;
21. Notes the link between Union citizenship rights and the European Pillar of Social Rights; emphasises that the right to move and work freely in the Union can only be bolstered through further legislative measures ensuring equal opportunities and access to the labour market, fair working conditions, and social protection and inclusion across the EU; calls on the Commission to take concrete measures to advance the implementation of the European Pillar of Social Rights; calls on Member States to fully and effectively implement Regulation (EC) No 987/2009<sup>7</sup> laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems in order to ensure the portability of social security benefits (including state pensions, health insurance, unemployment benefits and family benefits);
22. Stresses the need to abandon austerity measures and to adopt effective and consistent policies at EU level in order to guarantee full employment and adequate social protection, the highest levels of education and training, and the highest level of protection of human health and of the environment;
23. Regrets the existing opt-outs from parts of the Treaties by some Member States, which undermine and generate de facto differences in citizens' rights that are intended to be equal under the Treaties;
24. Considers that the revision of the legal framework governing the European Citizens' Initiative (ECI) presents an opportunity to enhance citizen participation in EU policy making by rendering the instrument less bureaucratic, more accessible and more effective; underlines that the resources for sufficient infrastructure and support for the conduct of the entire ECI process has to be provided by the Union; recalls that citizens' initiatives merit adequate attention from the EU institutions, as highlighted by the recent case law of the CJEU (Case T-646/13, *Minority SafePack – one million signatures for diversity in Europe v European Commission*); stresses the need to develop more comprehensive rules and better practices as regards the political and legal follow-up given to successful ECIs;
25. Recognises that Brexit will be the first time EU citizens have been stripped of their EU citizenship and its associated rights, privileges and protections; recalls that once EU citizenship has been granted it must be ensured that those who have utilised its

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<sup>7</sup> OJ L 284, 30.10.2009, p. 1.

privileges are not left in legal limbo when it is removed, particularly when against their own will, as witnessed during the UK's withdrawal from the Union; calls for citizens' rights to be secured in a separate agreement from the ongoing Brexit negotiations to remove them from the political process and ensure their protection even in a 'no-deal' scenario; considers the possibility of life-long EU citizenship, or a form of associate citizenship, for those who have had EU citizenship removed from them;

26. Believes that the SOLVIT service should be further mainstreamed and, in order to become more efficient, given supplementary powers to deal with issues related to free movement rights, including the right to entry as well as issues of residence and discrimination, before seeking any judicial or administrative remedy, saving time and the necessity for citizens to seek legal recourse and responding to their problems in a timely manner;
27. Believes that EU citizenship programmes such as 'Erasmus+' or 'Europe for Citizens' together with other initiatives aimed at promoting democratic participation in the life of the Union, such as crowdsourcing, are crucial elements that need to be renewed and boosted within the upcoming Multiannual Financial Framework;
28. Considers that the Charter of Fundamental Rights incorporated into the Lisbon Treaty as the most essential piece of law, both symbolically and in terms of content, framing EU citizenship; regrets that its Article 51, combined with a recurrent restrictive interpretation thereof, often renders its application void;
29. Considers that despite the efforts of the European institutions, awareness-raising on the issue of rights is still lacking in many Member States, thereby proving to be the most prominent barrier to the full enjoyment of the rights emanating from the status of the EU citizen;
30. Stresses that the body of rights and obligations arising from Union citizenship cannot be limited in an unjustified manner;
31. Calls on the Member States to better inform EU citizens as to their rights and duties, and to facilitate the entitlement to these rights being respected equally both in their country of origin and in any other Member State;
32. Recalls that the Lisbon Treaty lays down the procedure for its own revision, as established in Article 48 TEU; underlines that this is a valuable tool in order to further advance the possibilities of EU citizenship; notes that 10 years have passed since the last Treaty revision, one of the longest periods without a review during recent decades; considers that the reality of Brexit represents a clear justification and a unique trigger for launching a new process of revision; proposes the launch of a new European Convention for this purpose.

## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	21.11.2018
<b>Result of final vote</b>	+: 19 -: 1 0: 6
<b>Members present for the final vote</b>	Margrete Auken, Beatriz Becerra Basterrechea, Andrea Cozzolino, Pál Csáky, Miriam Dalli, Rosa Estaràs Ferragut, Eleonora Evi, Takis Hadjigeorgiou, Peter Jahr, Rikke-Louise Karlsson, Svetoslav Hristov Malinov, Lukas Mandl, Notis Marias, Ana Miranda, Miroslavs Mitrofanovs, Marlene Mizzi, Gabriele Preuß, Eleni Theocharous, Cecilia Wikström
<b>Substitutes present for the final vote</b>	Urszula Krupa, Kostadinka Kuneva, Julia Pitera, Ángela Vallina
<b>Substitutes under Rule 200(2) present for the final vote</b>	Asim Ademov, Adam Szejnfeld, Mihai Țurcanu

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

19	+
ALDE	Beatriz Becerra Basterrechea, Cecilia Wikström,
ECR	Urszula Krupa, Notis Marias, Eleni Theocharous
EFDD	Eleonora Evi
GUE/NGL	Takis Hadjigeorgiou, Kostadinka Kuneva, Ángela Vallina
NI	Rikke-Louise Karlsson
PPE	Pál Csáky, Julia Pitera
S&D	Andrea Cozzolino, Miriam Dalli, Marlene Mizzi, Gabriele Preuß
VERTS/ALE	Margrete Auken, Ana Miranda, Miroslavs Mitrofanovs

1	-
PPE	Rosa Estaràs Ferragut

6	0
PPE	Asim Ademov, Peter Jahr; Svetoslav Hristov Malinov, Lukas Mandl Adam Szejnfeld, Mihai Țurcanu,

Key to symbols:

+ : in favour

- : against

0 : abstention