



A MEMORANDUM ON CITIZENSHIP

Pathway toward a citizenship
for all in Europe

«Intercultural dialogue can only thrive if certain preconditions are met.

To advance intercultural dialogue, the White Paper argues, the democratic governance of cultural diversity should be adapted in many aspects; democratic citizenship and participation should be strengthened»

The Committee of Foreign Ministers of the Council of Europe

>> The history of our modern democracy is first and foremost the history of the fights of those who were unfairly excluded from the voting right: middle-classes, workers and women.



Today, an important component of society is still excluded from European citizenship, mainly the so-called foreigners, that is to say those who don't have the nationality of an EU Member State. In Europe, nevertheless, the concept of citizenship goes beyond the framework of the "Nation". Indeed, European citizenship was provided by the Maastricht Treaty (1992). Unfortunately, this move reveals itself unaccomplished since foreigner residents are still excluded on the basis of nationality. Nevertheless, with regard to democratic principles, this prohibition stands for the same injustice as the above-mentioned

exclusion toward middle-classes, workers and women.

Considering multiculturalism of the European societies, the ever-extending globalization as well as the increasing and border-crossing transnational networks, it is quite rational that Europe pushes the nation-state boundaries and focuses on the need to build an inclusive transnational democracy, where everyone can take part in political life. Accordingly, the European citizenship of residence is an international legal obligation as well as a judicious statement regarding the principle of democracy and human rights.

WHAT IS EUROPEAN CITIZENSHIP OF RESIDENCE?

The citizenship : is the fact that a person or a group is recognized as member of a community in which he/she wishes to take an active part, for the benefit of the common goal. The citizenship consists of civil and political rights as well as civic duties, which outline the citizen's role in the city and toward institutions. While citizenship

is still profoundly linked to nationality, «European citizenship of residence», dissociates citizen status from nationality and attaches it to residence. This is based on a crystal clear logic: Everybody shall be able to take part in the political life (i.e. constructing the society, for the benefit of the common project) in his/her residence community.

¹Publication of the Council of Europe: « White Paper on Intercultural Dialogue. Living Together As Equals in Dignity », 2008 (http://www.coe.int/t/dg4/intercultural/sourcewhite%20paper_final_revised_fr.pdf)



<< Discrimination based ultimately on the lottery of birth... >>

EUROPEAN CITIZENSHIP OF RESIDENCE AS A LEGAL OBLIGATION

The issue of extending citizen status to the foreigners lawfully resident in the territory of European Union is implicitly induced in several international legal instruments as well as in the founding principles of our modern legal code..

1. International Covenant on Civil and Political Rights (1996)²

Following the will expressed by the General Assembly of the United Nations, in accordance with the

Universal Declaration on Human Rights to adopt a legally binding covenant - the International Covenant on Civil and Political Rights (art. 25) states: "Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal

and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors (...)."

As for article 2, it stipulates clearly that: « Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin (...)."

2. Charter of Fundamental Rights of the European Union (2000)³

Legally binding for all the Member States of the European Union since the Treaty of Lisbon (2007), with the exception of the United Kingdom, Poland and Czech Republic, the Charter of Fundamental Rights of the European Union (art. 40) provides that:

"Every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he or she resides under the same conditions as nationals of that State".

Given that the European citizenship is granted to all the nationals of the EU Member States as provided by the Treaty of Maastricht (1992), the Treaty of Lisbon spreads out the discrimination between the Community-foreigners and non-Community-foreigners. Discrimination based ultimately on the lottery of birth. Still, the same Charter of Fundamental Rights of the European Union, mainly, article 21, indirectly makes such discrimination unlawful: Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union (...), any discrimination on grounds of nationality shall be prohibited.

WHY A CITIZENSHIP OF RESIDENCE?

The democracy, as the rule of the people by the people and for the people is grounded on the universal values of justice and equality and is based on a common belief of a human being as being endowed with reason and autonomy. The modern nation-state is the achievement of the universal democratic structure; that is an equalitarian legal community.

In our multicultural and multiethnic societies, this definition takes on full significance and opposes to the restrictive approach of the nation-state, which stands for a community that shares same traditional grounds, heritage and customs. Therefore, claiming a European citizenship of residence is not only advocating for more democracy; this is also a rational plea.

² <http://www2.ohchr.org/english/law/ccpr.htm>

³ http://www.europarl.europa.eu/charter/pdf/text_en.pdf

Other arguments to be taken into consideration

1. « No taxation without representation »

Despite the fact that foreigners residing lawfully in the territory of the EU-Member States participate in the social and economic life of their host countries, they are still mostly excluded from the political life. They pay taxes but still do not have the right of oversight and ownership of their funds. Yet tax paying is often considered as a citizen duty that in return is likely to be compensated by the right to vote and to stand for elections. Why shall it work differently for the foreign residents? How can not having the status of «national» justify such exclusion?

2. Nationality is not citizenship

Those oppose to the extension of the voting right to the foreign residents argue that the foreigners “should apply for nationality” to acquire full citizenship. Following this, the legal residents should merely undergo administrative procedure to be admitted in the community of the nationals. As if by magic, this would turn them into different persons, so as to make them understand suddenly the whys and wherefores of the political life of their host-community. Besides, those opponents to the citizenship of residence on basis of nationality also consider it as a cultural and historic belonging as well as a static identity. In view of this, one can argue that asking a foreign resident to leave behind his/her own profound sense of belonging to his/her own community by giving up his/her nationality of origin - and thus his/her identity and history- could be destructive and result in trauma. To sum up, we shall point out that the idea of nationality is a concept that implies “allegiance”. Would not it be preferable to consider an open statehood approach instead, a path in which allegiance is not imposed but experienced?

3. Social citizenship versus political citizenship

All the individuals with a legal residence in the territory of the European Union have several opportunities to exercise a social citizenship and play an active part in social and economic life. This for instance is the case of social elections in corporations, clubs and various associations. Though, it is rather curious that social citizenship is used as an alleged reason to pretend that the foreign citizens in Europe are deeply integrated insomuch that they actually do not need official citizen status. Accordingly, they argue that this would not change substantially anything other than the right to participate in elections. On the one hand, an opinion like this proves again until which level the perspective of granting citizenship to non-European nationals residents can be a highly emotionally and symbolically charged issue. On the other hand it reveals its underlying contradiction.

4. Communitarianism fallback

The opponents to the extension of the citizenship to the foreign residents fear that the move will nurture identitarian closure of the foreigners, which, at the end of the day may result in an «ethnic» vote. This concern is reinforced by the fact that some foreign nationals willingly refuse to be naturalized. But this occurs to be the very same argument that has been used in the past to keep middle-classes, workers and women from access to voting rights. In fact it reveals a «communitarian fallback» reaction of dominant group. Nevertheless, granting the voting right and the legal access to the citizenship is exactly opening the gate to the Universal, whereas side-effects of non-extension citizenship of residence will result in pernicious consequences, such as the fence between communities.

>> The voting right of the foreign nationals in European Union: already some building blocks...

Currently, thirteen EU Member States grant the voting right to all the foreign residents in local elections, provided that they have a permanent residence permit or a variable residence permit (five years maximum). Those countries are: **Belgium, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Lithuania, Luxembourg, Netherlands, Slovakia, Slovenia and Sweden.** However it should be highlighted that in several cases, the voting right is subjected to strict administrative conditions. So, those turn out to be a hindrance carrying on citizenship polarization. It goes without

saying that this does not help eradicate the feeling of discrimination against the non-Community foreign residents. **Four other EU-Member States (Spain, Portugal, the UK and the Czech Republic) grant the voting right to some Third-State nationals at all political levels under the principle of reciprocity or with regard to historical bilateral agreements between EU-Member States and those countries. Ten States such as Germany, Austria, Bulgaria, Cyprus, France, Italy, Latvia, Malta, Poland and Romania do not grant any voting right to the Third States nationals.**





>> Claims

>> The Treaty on European Union shall be revised so as to grant the status of European citizen to the foreigners who are lawfully resident in the territory of the European Union, under the provision of article 40 of the Charter of Fundamental Rights of the European Union as it states: "Every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he or she

resides under the same conditions as nationals of that State".

>> The conditions of access to the European citizenship shall be harmonized for all the EU-Member States, in order that every individual of legal age, who has been legally residing in the territory of the EU for five years, shall be entitled to the European citizenship.

CNAPD asbl | Chaussée d'Haecht 51 | 1210 Bruxelles | Tél. : 02 640 52 62 | Fax : 02 640 42 12
www.cnapd.be | info@cnapd.be | N° d'entreprise : 0467256918 | N° compte : BE49001062448171

