

- The intervention system must be retained with its current features, namely the level of the intervention price should be the proposed effective support price.
- The import arrangements must be geared to the survival of the sector from the point of view of both financial aspects and food safety for the public at large.

Brussels, 14 May 2003.

*The President
of the European Economic and Social Committee*
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Opinion of the European Economic and Social Committee on 'Access to European Union citizenship'

(2003/C 208/19)

On 21 January 2003 the European Economic and Social Committee decided to draw up an opinion, under Article 29(2) of its Rules of Procedure, on 'Access to European Union citizenship'.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 2 April 2003. The rapporteur was Mr Pariza Castaños.

At its 399th plenary session on 14 and 15 May 2003 (meeting of 14 May), the European Economic and Social Committee adopted the following opinion by 88 votes in favour and 40 votes against, with 8 abstentions.

1. Introduction

1.1. The European Convention has been working for months on drafting a Constitutional Treaty for the European Union. The EESC is participating in the work of the Convention through its observers, who bring to Convention debates the various proposals and recommendations adopted by the EESC in its opinions and its resolution addressed to the European Convention.

1.2. With regard to European immigration and asylum policy, as derived from the Treaty of Amsterdam and the Tampere European Council, the EESC has drawn up various opinions through which it is helping to ensure that the European Union has an appropriate common policy and transparent legislation based on equal treatment, equal rights and obligations, and the fight against all forms of discrimination.

1.3. On 9 and 10 September 2002, the EESC — in cooperation with the European Commission — organised a conference attended by representatives of the social partners

and major social organisations from 25 European States, to promote the integration of immigrants and refugees in European societies and to obtain new commitments from civil society⁽¹⁾.

1.4. The immigrant population of the Member States is set to rise. All the experts agree that for demographic, economic and social reasons immigration is going to increase and that a large number of these people will settle on a long-term or permanent basis⁽²⁾. Furthermore, mobility between Member States will increase as freedom of movement evolves. Mobility

⁽¹⁾ The conference also analysed other matters relating to immigration, such as the situation of people 'without papers'. It was concluded that when there is proper legislation allowing for the legal and transparent management of immigration, illegal immigration will decrease. These people must be treated fairly and the Member States must do their best to regularise their situation.

⁽²⁾ COM(2001) 127 final, EESC opinion OJ C 36, 8.2.2002

will also affect immigrant groups. The draft Directive on the status of third country nationals who are long-term residents proposes facilitating the mobility of such persons ⁽¹⁾.

1.5. Pro-integration public policies and social attitudes are needed to make Europe a welcoming place, an inclusive, plural and intercultural society. To properly integrate present and future residents from third countries is a strategic objective for Europeans.

1.6. The Convention must consider whether the present political and legal foundations of the common immigration policy are sufficient for pushing forward with this objective of encouraging integration. The EESC would like to see the future European Constitution reinforce the Union's mandate to draw up an appropriate common immigration and asylum policy in line with the Tampere Council conclusions.

1.7. One of the conclusions of the conference was that the Convention should grant European citizenship to third-country nationals who are stable residents. This would make it easier for them to exercise their political rights and thereby improve integration, as European citizenship and the rights and obligations deriving from it are a very important factor for the integration of these people into host societies.

1.8. The EESC's resolution addressed to the European Convention states the following: 'Policies for integrating immigrants need to be improved. The Committee calls on the Convention to examine the possibility of granting Union citizenship to third country nationals with long-term resident status'.

1.9. Bearing in mind the constitutional nature of the Convention's work, the EESC calls on the European Convention to consider and analyse this proposal with due attention.

1.10. This proposal also has the backing of many people and political and social organisations in the various Member States who for years have been calling for third party nationals

who reside on a stable basis in the European Union to be granted citizenship so that they can exercise their political and social rights.

2. Legal bases

2.1. It is for the European Convention to draw up proposals for providing EU legislation with new bases. Union citizenship, as instituted by the Maastricht Treaty, is at the crux of this responsibility for updating the bases of European law. In the first part of the draft Constitutional Treaty (Articles 1 to 16) published by the secretariat of the European Convention on 6 February 2003 (CONV 528/03), the Praesidium proposes that Union citizenship be an entitlement which is additional to, but does not replace, national citizenship (Article 7.1). This precept establishes a clear link between the definition of Union citizenship and the guarantee by the Union of the right of all Union citizens to equality before the law (end of Article 7.1).

2.2. In line with this suggested link between citizenship and legal equality, the EESC proposes that the European Convention should adopt a broad definition of European citizenship covering third country nationals who are stable or long-term residents in one of the Member States. This broad definition corresponds to the one adopted by the Commission and termed 'civic citizenship' ⁽²⁾.

2.3. The proposal to enshrine this broad concept of European citizenship in European primary legislation is bolstered by the Convention's explicit objective to incorporate the Charter of Fundamental Rights, as solemnly proclaimed by the Parliament, Council and Commission ⁽³⁾, into the European Constitution. This broad definition of European citizenship, or 'civic citizenship', is the supreme legal expression of the European Union's commitment to gradually and increasingly giving tangible effect to the indivisible and universal right of all people to equality before the law. This value of legal equality is laid down as an individual fundamental right in Article 20 of the EU Charter of Fundamental Rights and as the first tenet of European citizenship in Article 7(1) of the draft Constitutional Treaty drawn up by the Praesidium of the European Convention.

⁽¹⁾ EESC opinion on the Proposal for a Council Directive on the right to family reunification, OJ C 241, 7.10.2002; OJ C 204, 18.7.2000

⁽²⁾ COM(2000) 757 final.

⁽³⁾ OJ C 364, 18.12.2000.

2.4. The fact that this proposal takes Article 20 of the EU Charter of Fundamental Rights as its legal basis is fully compatible and consistent with the in-depth legal consideration of the way in which the Commission has developed EU immigration policy since 1997 under Article 63 of the EC Treaty. Indeed, since the entry into force of the Treaty of Amsterdam, the Council has had the authority to adopt measures on immigration policy to ensure common equal treatment for third country nationals with regard to the conditions and procedures governing entry and residence, and the rights and conditions under which third country nationals who are legally resident in a Member State may reside in other Member States.

2.5. The exercise of these powers will, in the near future, result in a genuine set of Community rules for the different legal situations of third country nationals who, having entered the EU legally, travel through, or stay temporarily or reside on a stable basis in the Member States. The Commission's Communications to the Council and Parliament (A Community immigration policy ⁽¹⁾ and An open method of coordination for the Community immigration policy ⁽²⁾) and proposed Directives on this issue state that these rules will include a single legal regime governing the situation of third country nationals who are legal stable or long-term residents ⁽³⁾ either directly, owing to the fact that they are permanent residents, or by exercising the right to family reunification ⁽⁴⁾.

2.6. The broad definition of European citizenship, or 'civic citizenship', based on Article 20 of the EU Charter of Fundamental Rights addresses the same social phenomenon that justifies giving the Council the responsibilities laid down in Article 63 of the EC Treaty, although the focus is on immigrants residing legally and on a long-term basis in the Member States.

2.7. The difference between these two perspectives therefore lies not in the social situation covered by the regulations, but in how to adopt a concept of 'civic citizenship' which provides a constitutional legal instrument that:

- a) enshrines at the highest level of EU law the commitment to equal treatment for third party nationals in order to promote and facilitate the civic integration of third party

nationals residing legally and on a stable basis in one of the Member States (equality before the law);

- b) strengthens the guarantee of non-discrimination in the regulations covering third party nationals with long-term resident status (equality in the law); and
- c) indirectly helps to give tangible effect to the guarantee of the right to non-discrimination in the application of Community legislation governing the situations of third party nationals (equality in the application of the law).

2.8. The strict definition of EU citizenship addresses the need to regulate a legal situation laid down in Articles 17 to 22 of the EC Treaty. Accordingly, the broad definition of European citizenship, or 'civic citizenship', should address the legal situation created by the future Constitutional Treaty, the scope of which encompasses stable residents who are not nationals of any of the Member States. The acceptance in Union law of this new criterion for granting citizenship must be based on the definition of the rights, benefits and interests which are protected in this legal situation. The content of this future regulation must maintain a fair balance by stipulating that these people must comply with the Community regulations and principles of Union law that apply to them. It must also be hoped that this legal recognition of the broad definition of European citizenship, or 'civic citizenship', is provided with the same procedure for updating its content as laid down in Article 22 of the EC Treaty for the content of European citizenship.

2.9. Extending the ambit of European citizenship through this new criterion for granting citizenship does not modify the powers and tasks given to the EU institutions by the Treaties. However, if the Convention were to adopt a broad definition of European citizenship, this would gradually give effect, in relation to third party nationals, to the EU's commitment to respect the fundamental right to equality before the law, in the law and in the application of the law, as proclaimed in the EU Charter of Fundamental Rights and as safeguarded in the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950.

2.10. As stated in Article 51 of the EU Charter of Fundamental Rights, this commitment would also have to be binding on the Member States in their application of EU law. More specifically, it would have to be used as a guide when applying

⁽¹⁾ COM(2000) 757 final.

⁽²⁾ COM(2001) 387 final.

⁽³⁾ COM(2001) 127 final.

⁽⁴⁾ OJ C 204, 18.7.2000.

Article 63(4) of the EC Treaty on the adoption by the Member States of national provisions defining the conditions and procedures governing entry and residence of third country nationals (Article 63(3) and (4)) that are compatible with the Treaty and with international agreements.

3. European Convention

3.1. On 6 February, the Convention Praesidium published its draft of Articles 1 to 16 of the Constitution. Article 5 incorporates the Charter of Fundamental Rights into the Constitution, while Article 7 defines citizenship of the Union as follows: 'Every national of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to national citizenship; it shall not replace it.'

3.2. This proposal denies EU citizenship to residents who are third party nationals, even if they are stable residents.

3.3. The EESC has proposed in various opinions (see Appendix) that the Constitution should grant EU citizenship to third country nationals who reside on a stable basis in the EU.

3.4. In its resolution to the European Convention, the EESC called for the Convention to grant Union citizenship to third country nationals who are stable or long-term residents so as to improve integration. Equality between all residents, be they nationals of the Member States or of third countries, is a *sine qua non* for integration. A community cannot have living within its midst some people who are debarred from the political and other rights enjoyed by those 'foreigners' who are Member State nationals.

4. Plural, inclusive and participatory European citizenship

4.1. In line with the principle of subsidiarity, each Member State must continue to be responsible for drawing up legislation granting nationality of each State. However, a degree of harmonisation is needed in order to prevent unwanted discrimination and promote actions to foster integration, such as granting nationality to stable residents if they so wish.

Subsidiarity must not be used by the Member States to limit residents' rights. Moreover, as the EESC ⁽¹⁾ pointed out: 'Member State legislation allowing for dual nationality [...] is a positive factor for integration.'

4.2. However, it is for the Union to define EU citizenship and its characteristics. When the Convention redefines citizenship of the Union, it is fulfilling its mandate, as it is the Union's responsibility to lay down the nature of such citizenship in the Constitutional Treaty. The concept of European Union citizenship first appeared in the Treaty of Maastricht before being consolidated in the Treaties of Amsterdam and Nice. It is therefore a firmly consolidated legal and political institution in the European Union. The Treaty currently stipulates that people who are citizens of one of the Member States are citizens of the Union; it is therefore the Member States that indirectly decide who are citizens of the Union and who are not.

4.3. European citizenship must be at the heart of the European venture. The Convention is developing a major political project to ensure that all citizens feel part of a supranational democratic political community. It is time a new criterion for granting citizenship: European citizenship based not only on nationality, but also on stable residence in the European Union. In the Charter of Fundamental Rights, national legislations, the Treaties and EU legislation, residence is already a criterion for granting various economic, social, cultural and civil rights and obligations. However, at the moment some political rights, such as the right to vote, are excluded. The EESC believes that legal stable residence must also be a route to achieving citizenship of the European Union.

4.4. The EESC welcomes the incorporation of the Charter of Fundamental Rights into the Constitution and adhesion to the Convention for the Protection of Human Rights and Fundamental Freedoms, which recognises a 'civic' citizenship. This is the first step towards participatory citizenship for all people residing on a stable basis in the EU.

4.5. The EESC agrees with the nature of Union citizenship: i.e. that it should be in addition to national citizenship, not replace it. The new criterion for granting Union citizenship proposed by the EESC may open up new possibilities for residents who are not EU nationals.

⁽¹⁾ OJ C 125, 27.5.2002.

4.6. At the moment, Union citizenship and the political rights this implies are granted on the basis of nationality. European citizenship is granted to five million people who reside in one of the Member States and are nationals of another Member State. However, between 15 and 20 million people who reside in the European Union but are not nationals of one of the Member States are discriminated against. Some Member States and candidate countries recognise their right to vote in local elections. Most States, however, deny these people their political rights. In accordance with the principle of equality, such discrimination on the grounds of nationality must be eliminated.

4.7. Many of these people, moreover, belong to minorities who suffer a wide range of different forms of discrimination on the part of the society in which they live, as well as legal discrimination. For these people, legal discrimination on the grounds of nationality simply marginalises them even further.

4.8. European citizenship cannot be built without taking account of all these people. At a time when the European Union is embracing most of the States and citizens of Central and Eastern Europe, it cannot go on excluding millions of people who live within its borders. The outward opening-up of European citizenship must go hand in hand with inward inclusion. If not, millions of people who are actively in the process of integration will undoubtedly feel very excluded. Given that these people are asked to comply with the law, it is only fair that they should have the same rights as the rest of the community.

4.9. The EESC wants European citizenship to be extended inwards as well, towards people who reside on a stable basis in the European Union and are either third country nationals or stateless. These people currently make up the seventh-largest demographic group in the EU. Citizens' Europe must not become a fortress Europe that distinguishes between people on the basis of their nationality and, increasingly, how much they are in the public eye.

4.10. The EESC asks the European Convention if this situation of political and social exclusion for millions of residents is compatible with the values it proposes for the Union in Article 2 of the future Constitution: i.e. human dignity, liberty, the rule of law, human rights, tolerance, justice

and solidarity. It also asks if this is consistent with the fact that for many years European democracies have been fighting against all types of legal and social discrimination.

4.11. The EESC believes that the Convention may put an end to such discrimination in the future European Constitution. If third country nationals who are stable residents were to obtain Union citizenship, some forms of discrimination from which many people suffer would be eliminated, e.g. regarding the right to political participation, free movement, use of public services, the right to vote in elections at the workplace, the right to own property, etc.

4.12. As European citizens, we speak different languages, have different customs, profess different religions or no religion at all, have different coloured hair and skin, are of different sexes and sexual orientations, and have different ethnic origins, social, geographical and national backgrounds, cultural roots, and moral and ideological beliefs. European democracies have managed to integrate differences by prohibiting any form of illegal discrimination. However, we still have discriminatory and negative legislation that excludes people from political and social rights on the basis of national origin.

4.13. In the first European Constitution, at the beginning of the 21st century, the right to citizenship must go beyond the limits of nationality and embrace the concept of stable residence. If the basis for people's political or social rights is belonging to a national community, or an ethnic or cultural group, there can be no such thing as European citizenship. Europe is plural in every sense; in essence it is intercultural. The basis for the European Union is not the 'European nation'. European citizenship cannot be based exclusively on nationality, but must go beyond the mere sum of Member State nationals in order to be a plural and participatory form of political citizenship that promotes integration. Such participatory citizenship, which is part of the common identity of European citizens, implies not only a democratic relationship between citizens and 'the State', but also a system of participatory relationships between citizens and civil society organisations.

5. Right to vote

5.1. In ancient Greece and Rome, women, slaves and 'foreigners' were denied the right to citizenship (as we understand it today). Likewise, during the revolutions of the last few centuries, employees and people who did not own property were sometimes denied voting and other political rights. In

Europe, it was well into the 20th century that women won the right to vote and citizenship on the same terms as men. Moreover, during the last century, many States denied citizenship to people belonging to minority ethnic groups. The struggle for democracy and political rights has been an ongoing process, which our generation must defend and continue.

5.2. There is no doubt that when a person or group of people are denied voting rights or the right to political participation by the society in which they reside, this society is expressing a wish to exclude: it is refusing to let them belong to the community. These people are allowed to reside in the EU, and to work, pay taxes and social contributions, and they accept and adhere to our laws ... but they are denied, inter alia, the right to political participation. They are not EU citizens because, even if they want to be, they are not part of the political community of the 'civitas' where they live.

5.3. In another opinion⁽¹⁾, the EESC stated that legislation, public authorities and civil society all need to reflect pro-integration policies and attitudes. The basis of integration is 'civic integration', 'bringing immigrants' rights and duties, as well as access to goods, services and means of civic participation progressively into line with those of the rest of the population, under conditions of equal opportunities and treatment'. It is therefore a concept of integration that is political in nature and includes voting rights and other political rights inherent to citizenship.

5.4. The advantages for people who are granted political rights are clear: they have the same duties and the same rights as the rest of the population. And what are the advantages for the host society? Some Member States that have already granted 'foreign' residents the right to vote in municipal elections are making progress on integration. Although all societies inevitably experience a degree of conflict, such conflict is always reduced if political participation is exercised effectively, as participation in drafting laws contributes towards their effective implementation. Back in 1992, the Council of

Europe drew up Convention 144 on foreign residents' right to vote in local authority elections.

5.5. The right to vote (active and passive), which is inherent in the type of European citizenship that we demand for third country nationals who reside in the EU on a stable or long-term basis, should apply to local elections in the country of residence as well as European Parliament elections, as this is the political institution that represents all citizens of the European Union.

6. Conclusions

6.1. Granting EU citizenship to third-country nationals who are stable or long-term residents is a positive step that demonstrates the EU's commitment to integrating all residents, regardless of nationality.

6.2. The immigrant population of the Member States is set to rise. Many of these people will be stable or long-term residents. There will be an all-round increase in mobility as freedom of movement evolves. The Convention must consider whether the present political and legal bases are adequate or not for promoting integration.

6.3. The EESC calls on the Convention, in drafting the first EU Constitution, to apply the principle of equality to everyone, be they Member State or third country nationals, who resides on a legal and stable basis in the Union.

6.4. The EESC calls on the Convention to provide a new criterion for granting Union citizenship: citizenship should be linked not only to nationality of a Member State, but also to stable residence in the Union.

6.5. The EESC therefore proposes to the Convention that Article 7 (Citizenship of the Union) be granted not only to nationals of the Member States but to all persons who reside on a stable or long-term basis in the European Union. Union citizenship will be additional to but will not replace national citizenship. In this way such persons will be European citizens and therefore equal before the law.

⁽¹⁾ OJ C 125, 27.5.2002.

Brussels, 14 May 2003.

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