

THE ALTERNATIVE REPORT ON EUROPEAN CITIZENSHIP

Citizenship of the European Union is the first transnational citizenship of modern times. What is the basis for this new form of citizenship which is additional to citizenship of a Member State of the European Union?

European citizenship is not a new invention, or a purely symbolic idea. It goes back to the legal order created by the original Treaty of Rome and decisions of the European Court of Justice which can be invoked not just by Member States but also by individuals. Moreover, the European Court of Justice has, since European Citizenship was formally added to the Treaties in the revision of Maastricht in 1991, made free movement in the European Union a fundamental right of citizenship. Nevertheless this is very much a citizenship in progression which raises as many questions as it does answers. Could European citizenship develop beyond free movement rights to match the expansion of the European Union's activities?¹ Certainly European citizenship has popular support and in addition to exchange programmes, the European Union Institutions are beginning to experiment with participatory democracy. What else can bring people closer together across 27 Member States? On the development of European citizenship depends the European Union's search for common European values for which the Charter of Fundamental Rights provides a context. Developing European citizenship is not only in the interest of the European Union Institutions but also of citizens themselves. With the internet and more frequent, cheaper, travel, a citizenship detached from Member States and place of residence becomes increasingly imaginable. European citizenship is a basis for people to join forces in civil society and express their concerns at different geographical levels. People can regain more sense of control over international, economic and political decisions which affect their everyday lives. An outward looking and responsible transnational citizenship is the answer to a need for a stronger Europe in the face of globalization.

In 2007, the European Union celebrated the 50th anniversary of the Treaty of Rome. Over this period the Treaties have been gradually expanded from the original narrow economic conception to become more broadly based. Four different historical trends point towards European citizenship:

- ✚ At the outset, free movement concentrated on workers and their families but as the economy and society changed, legislation was added for self employed persons, for students, pensioners and those outside the workplace leading to the inclusion of citizenship of the European Union in the Maastricht Treaty. Free movement of people became less economic and more orientated towards a basic right of citizenship.

¹ This question is discussed in "Rethinking European citizenship", a collection of essays by leading academics, edited by ECAS (ECAS, 2003)

- ✚ From the original focus on equal pay for equal work and non-discrimination on the grounds of nationality, the European Union came to embrace a broader anti-discrimination agenda which in the new Treaty of Lisbon is linked to citizenship. A special convention drew up a Charter of Fundamental Rights which will become legally binding when the new Lisbon Treaty comes into force. The Treaties and the Charter now provide for a broader context for the development of European citizenship.
- ✚ From the original list of activities in the Treaty of Rome which was predominantly economic, the European Union has gradually expanded its remit, firstly to environment and development, then to consumer protection, public health, culture and education, as well as policies closely associated with national sovereignty and the exercise of citizenship such as justice and security.
- ✚ Finally, following the first European elections in 1979, the issues of accountability, transparency and better governance came gradually on the European agenda. In the citizenship chapter there is a balance between the rights connected to free movement and measures to make them more effective by the creation of the European Ombudsman and petitions to the European Parliament. Other initiatives such as the right of access to documents of the Institutions added by the Treaty of Amsterdam are also closely related to citizenship².

**Article 20, Treaty of Lisbon
(ex Article 17 TEC)**

1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall be additional to and not replace national citizenship.

2. Citizens of the Union shall enjoy the rights and be subject to the duties provided for in the Treaties. They shall have, *inter alia*:

- (a) the right to move and reside freely within the territory of the Member States;
- (b) the right to vote and to stand as candidates in elections to the European Parliament and in municipal elections in their Member State of residence, under the same conditions as nationals of that State;
- (c) the right to enjoy, in the territory of a third country in which the Member State of which they are nationals is not represented, the protection of the diplomatic and consular authorities of any Member State on the same conditions as the nationals of that State;
- (d) the right to petition the European Parliament, to apply to the European Ombudsman, and to address the institutions and advisory bodies of the Union in any of the Treaty languages and to obtain a reply in the same language.

These rights shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder.

N.B The full text of the new Treaty can be obtained online here:
<http://consilium.europa.eu/uedocs/cmsUpload/st06655-re01.en08.pdf>

² These different historical trends are explored in more detail in “50 questions and answers on citizens and the Treaty of Rome” (ECAS, June 2007)

History points in the right direction, but it cannot be assumed that further progress will occur naturally. The underlying tension between European Institutions as an instrument for cooperation amongst Member States and the relationship with citizens remains. Reaching agreement among member states still takes precedence over involving citizens. Is the European Union really listening to citizens and do its rules on transparency amount to a genuine freedom of information regime? Whilst the European Union can claim to put forward a citizens' agenda over a range of its policies, how effective are some of the new policy areas added to the original treaties? History has shown that progress towards a citizens' Europe has been uneven and fragile and this remains the case today. For example, reactions to the "no" votes to the Constitutional Treaty in the French and Dutch referenda in 2005 have been contradictory. On the one hand, the European Commission launched a "Plan D" for dialogue, democracy and debate and discussions on the future of Europe were supposed to take place all over Europe. On the other hand at the same time, the Member States embarked on highly secretive negotiations behind closed doors to see how the draft Constitution could be saved. The Treaty establishing a Constitution for Europe became simply a Treaty although most of its substance was preserved. It was stripped of its "constitutional" symbols, the flag and the European anthem. In the referendum and parliamentary debates on the constitutional Treaty, there was no real objection to these symbols of European identity, so the change was largely cosmetic. The symbols should continue to be used. Nevertheless, this issue shows how fragile European citizenship is and how lightly it can still be treated.

The European Commission in terms of the Treaty, has to produce every three years a report on citizenship to the European Union which is not just an activity report, but one which also provides the opportunity to make proposals to extend rights³. The Commission which at the beginning of 2008 produced a 5th report has never taken advantage of the evolutionary nature of citizenship of the European Union⁴. This may be because to adopt such proposals requires unanimity in the Council of Ministers and the European Parliament only has a consultative role. So far the European Commission has lacked the vision and political will to develop European citizenship⁵.

In 2009, with elections to the European Parliament and the appointment of a new European Commission, there is an opportunity for the European Union to revisit European citizenship and take new initiatives. The opportunity to re-launch European citizenship is also favorable because the impasse over the Constitutional Treaty has been

³ See Article 25 of the new Treaty as can be obtained here:
<http://consilium.europa.eu/uedocs/cmsUpload/st06655-re01.en08.pdf>

⁴ The fifth report can be read online or downloaded here:
http://ec.europa.eu/justice_home/news/information_dossiers/5th_citizenship/docs/com_2008_85_en.pdf

⁵ ECAS has sent a complaint to the European Ombudsman because the European Commission failed to consult in the preparation of the 5th report on citizenship of the European Union which was also presented late in February 2008. It should have been published in the previous year. The aim of this complaint is to encourage the European Commission to open up a much wider debate on European citizenship and to make more of the opportunities provided by the Treaty.

overcome. Paradoxically however, in that period of impasse, European Union citizenship progressed and attracted increasing support and attention:

The European Court of Justice is showing the way forward. In the history of the European Union when the European Court of Justice takes the lead, the other Institutions often follow. So it is with European citizenship which the European Court of Justice appears to be consciously creating in a series of landmark judgments combining the articles on free movement with those on equal treatment. The Court, “*has repeatedly emphasized that European Union citizenship is destined to be the fundamental status of nationals in Member States enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality subject to such exemptions as are expressly provided for*”⁶. The Court has established free movement as a fundamental right that does not need to be justified. Rather it is for the Member State to justify any restriction as reasonable and proportionate. This reversal of the burden of proof puts the citizen on the move in a much stronger position vis-à-vis national administrations. The cases relate to the need to reconcile free movement of people with national policies which Member States are reluctant to see harmonized. These policy areas are often highly sensitive and close to national sovereignty: access to higher education, social benefits, taxation and even the acquisition of nationality itself. The Treaty and the way it is being implemented by the European Court of Justice is also bringing about more recognition of citizens as citizens rather than different categories of the population or professions. In this way, following the lead taken by the Court, EU legislation on free movement and residence – the so-called European citizenship directive (38/2004) – brings together 9 separate legal texts for different categories. Similarly, new legislation on the recognition of professional qualifications brings together 15 previous laws for separate professions. There is often however, a gap between the principles of European citizenship in the case law of the European Court of Justice and the legislative texts, and what happens on the ground where Member States often invoke the exceptions to European Union law rather than its spirit to create obstacles to the practice of European rights.

European citizenship has popular support. Together with the 5th report, the European Commission published a European opinion poll which shows that European citizenship has increasing public awareness and support⁷. Although they are understandably vague about its actual contents 78% of people claim familiarity of the term, “citizen of the European Union”, but only 41% claim to know what it means and only 18% actually recognize all the rights they possess. A growing majority of people recognize some degree of European identity, which is particularly true of young people. Asked in an earlier eurobarometer poll what they thought would strengthen European citizenship, 32% thought a European welfare system, 27% thought a constitution and 21% thought voting in all elections. Concerns have been expressed by governments that European citizenship could in some way confuse people or detract from the exercise national

⁶ For a review of the case law see report of the ECAS conference held on 24 May 2006 and background documents on the ECAS website – www.ecas-citizens.eu

⁷ For the summary of the eurobarometer titled, “European Union Citizenship” published February 2008 : http://ec.europa.eu/public_opinion/flash/fl_213_sum_en.pdf

citizenship. However, research suggests that this is not the case and that greater engagement in local and national political issues and in civic life generally goes hand in hand with greater engagement in Europe and a feeling of European citizenship. Public opinion research is grounds for optimism showing the gradual emergence, particularly among the younger generation of a new type of European citizen. However, there is also a need for caution since a large section of the population consider themselves only as national citizens. Citizenship of the European Union in terms of its rights and programmes still has to reach the unreached.

New initiatives for participatory democracy are being tested at European level. The reactions to the negative referenda results on the Constitutional Treaty have at least had one positive effect. The European Union since its early history has always been interested in the promotion of exchanges among young people, students – the Erasmus exchange programme for university students celebrated its 20th anniversary recently⁸, as well as funding programmes for volunteers and European projects run by NGOs. What is new is the attempt with Plan D to make more of the European activities and promote them towards concepts of active citizenship and the creation of a European public sphere⁹. European citizenship has thus become much more an explicit component of a new generation of programmes such as, “Europe for citizens”. Moreover, a number of exchange programmes targeted towards different age groups in the population have been brought together under the new lifelong learning programme. As with the legislative framework, the programmes which the European Union are offering is therefore much more closely related to people as citizens.

Despite this momentum, citizenship is too important to be conceived as a model, definitive set of rights or values overnight. There are no instant solutions for a number of reasons:

- ✚ In the first place, there are very different conceptions and approaches to citizenship often classified as liberal or rights based, communitarian or republican and participatory.¹⁰ In reality, for the individual, citizenship often means all these things. Citizenship has very different national historical roots. In some countries it has been born out of traditions of revolution and protest, in others it has been much more closely related to the formation of the State and the constitutional order. The potential of European citizenship lies in the fact that it can lead us to think about and enrich the meaning of citizenship because it can only be a melting pot of very different national and political approaches. European citizenship has a role in establishing new forms of consensus in a multi-cultural, multi lingual society.

⁸ To learn more about the Lifelong Learning Programme: http://eacea.ec.europa.eu/lfp/index_en.htm

⁹ More on this and other topics can be found in this book by Viola B. Georgi, “New Perspectives on Citizenship Education”, (2008).

¹⁰ As per Bellamy, R.,D. Castiglione, J. Shaw, ed., “Making European Citizens: Civic inclusion in a transnational context”, (2006).

- ✚ Secondly, it is very difficult to have a clear picture of what European citizenship might become because it is in no way comparable to citizenship of a Member State. Since the creation of the modern welfare State, citizenship has become associated with a complete set of rights, duties, and entitlements which remain largely in the national sphere. European citizenship is bound to remain far less extensive and evolve against the background of variable decision making at different geographical levels. The European Union in the monetary area is to some extent a federation because of its single currency and central bank but in other areas closely associated with the exercising of citizenship, responsibilities remain decentralised and largely in the hands of Member States. In such a complex construction, the priorities for transnational citizenship beyond free movement rights can only emerge over time as a compromise between what citizens want and the division of tasks between the European Union and Member States. One cannot perceive European citizenship through the prism of our national citizenship; it will be something new, affecting some more than others and running deep but on a much narrower front.

- ✚ Thirdly, it is tempting to assume that a more fully developed European citizenship could come into being through the definition of common values. The European Commission set up a high level group of experts from several fields to answer precisely this question. Their conclusion was that Europe is very much a process, not a “fact”: *“a mere list of common European values is not enough to serve as the basis of European unity even if the Charter of basic rights included in the European Union’s Constitutional Treaty points in this direction. This is so because every attempt to codify, “European values” is inevitably confronted by a variety of diverting national, regional, ethnic, sectarian and social undertakings. This diversity of interpretation cannot be eliminated by a Constitutional Treaty even if backed up by legislation and judicial interpretation”*¹¹. However European citizenship can become the common ground among different values and identities.

Bearing this in mind, it is certainly more creative to see European citizenship as a process, of which, like European integration, the final shape, geographical scope, and destination cannot be clear.

¹¹ Final report by the Reflection Group titled, “The spiritual and cultural dimension of Europe” published October 2004: http://ec.europa.eu/research/social-sciences/pdf/michalski_281004_final_report_en.pdf

The European Union's efforts to develop European citizenship should concentrate on creating an enabling institutional framework with three objectives in mind: not on top-down "solutions", but equal access for all to the benefits of European citizenship; making it a holistic and organizing concept; ensuring its relevance to what the European Union Institutions do and the distribution of powers between them and Member States.

Such aims raise questions about who is a European citizen in the first place and whether European programmes reach out to the most disadvantaged groups in society. They also raise questions about the coherence of rights particularly in the political sphere. There are also many questions about how rights should be better enforced.

European citizenship raises issues of governance and institutional reform. The European Union lacks the focal point for European Union citizenship which is everyone's and no-ones' responsibility. Even in the area of free movement responsibility is scattered amongst different departments and committees in the Institutions. In turn research instead of adopting a multi-disciplinary approach tends to view European citizenship from a legal, political science or more philosophical or cultural perspective. Without an institutional focal point it is difficult to bring together a wide range of interests in European citizenship to come together as an effective voice for its further development. The result is that far from being an organizing concept, European citizenship can end up as a deeply abstract convenient label on a range of different activities which if brought together could make far more impact.

A TEN POINT AGENDA TO DEVELOP EUROPEAN CITIZENSHIP

1. Make European citizenship work better.

The number of European citizens using their right to live and work in other Member States is even after enlargement since 2004 from 15 to 27 member states below 2% of the total population: 8.2 million out of 450 million people, although the official figures underestimate the real number. How aware are people that they are European citizens and are they treated as such? The eurobarometer opinion poll published with the 5th report on citizenship of the European Union shows that whereas as 90% of people recognize this concept, only 18% recognize correctly what their rights are. There should be a citizens' right to be informed in the first place as the key to accessing other European rights¹². Information could make European citizenship work a good deal better. For example, problems arise with exporting social rights or having qualifications recognized in the new host country if people are not prepared before they depart. Indeed 80% of problems could be avoided if people were better informed before they leave. Information exists but people do not know where to find it and it also needs to be better organized. The information points and administrations responsible for the delivery of European rights tend to be scattered. Progress should be made towards the idea of "one stop shops" to accompany European citizens before they leave their own country, when they arrive in their country of destination and to prepare for their return. A citizens' panel of European migrants brought together by ECAS demanded a single, reliable and updated source of information agreed between the European Commission and each Member State so that people could more easily understand what their European rights are and how they are implemented in any given country. To reduce red tape and paperwork, the European health card is a step in the right direction and could be developed as a European citizenship card with specific entitlements (cf. point 5).

Not all problems can be solved by more and better organised information. There is still a gap between the case law of the European Court of Justice, the principles of legislation and what happens on the ground:

- ✚ The majority of Member States are often late to apply new legislation on free movement of people and even create new barriers when they do so
- ✚ Workers from new Member States have felt treated as second class citizens as the result of an array of national temporary restrictions on access to the labor market by old Member States
- ✚ Third country nationals who are part of a European Union family often suffer illegal restrictions because Member States lack confidence in each other's immigration policies.

¹²“Connecting with citizens - Does the European Union have the will to tackle its information deficit?” (ECAS 2006). This publication argues for such a right. It can be ordered online at www.ecas-citizens.eu

In June 2009 there will be elections to the European Parliament and a new Commission appointed in November. A major task for the new European Parliament and European Commission should be to reduce the gap between the theory and practice of European citizenship and examine ways in which non-judicial and judicial remedies should be strengthened. Partly this is a question of resources: several information, advice and problem solving mechanisms exist, such as Solvit. Citizens can also approach MEPs, send complaints and appeal to the European ombudsman. But these possibilities are little known and underused, even though article 20 in the new Treaty creates a balance between rights and the means to make them effective. The objective should be to ensure that the Commission's powers of enforcement as guardian of the Treaty are as effective when it comes to defending citizens rights as they are for competition or trade policy.

2. European citizenship should become more inclusive

Citizenship of the Union should be extended to the long term legally resident third country nationals who should be offered the opportunity to obtain the nationality of the Member State in which they are resident. This objective which is consistent with a declaration by the European Council meeting in Tampere over a decade ago should be achieved for three reasons.

✚ In general policies of integration and access to citizenship are encouraged especially when the real gap between citizens and non-citizens in law is already being reduced. This is true of Europe's two groups of migrants. The difference in treatment between 8.2million European Union citizens exercising their rights to live and work in another Member State and 17million legally resident third country nationals is in reality less than might be apparent. Third country nationals who are part of a European Union family already have a right to work in another Member State and all family members have the same rights as the European citizen. All third country nationals acquiring the status of long standing migrant workers now have the right to work in another Member State according to a new directive¹³. Third country nationals are also included in the European Union's new regime for the co-ordination of social security and the recognition of qualifications acquired outside the European Union has become easier. The remaining obstacles lie in extending European citizenship political rights to third country nationals to vote in local and European elections, where national practice differs.

✚ A more inclusive European citizenship would be consistent with a number of European Union policies agreed by all the European Union Institutions and governments in favor of integration, intercultural dialogue and equal opportunities. It appears increasingly inconsistent that European Union directives

¹³ Directive 2003/109/EC: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:016:0044:0053:EN:PDF>

banning racism and xenophobia should be put in place without initiatives to facilitate integration and naturalization as the way of access to European citizenship.

- ✚ Removing the remaining discriminatory barriers to access European citizenship should be achieved as the European Union established more common standards for external borders and immigration. The extension of the Schengen travel zone to the member states which joined the Union in 2004 is a step towards this objective. As progress is made towards European immigration policies, at least for certain categories of highly skilled, seasonal workers or students, it should be easier to create a genuine free travel and free movement zone within the European Union and extend European citizenship.

3. Give coherence to the electoral rights attached free movement of European citizens

It is a sign of the failure of the European Institutions and governments to develop European citizenship that the eurobarometer published with the fifth report shows, that awareness is actually decreasing when it comes to the rights to vote or stand as a candidate in municipal and European elections in another member state. Since the first European elections in 1999, the number of Union citizens voting in European elections in another member state has doubled, but is still only 12%. The Commission reports that it is acting to make it easier for Union citizens to stand as candidates – there are still very few – and to remove any discriminatory legal obstacles. The catastrophically low turnout is paradoxical when it is people exercising their free movement rights as European citizens who probably receive the most attention from the European Parliament in its committees on petitions, legal or social affairs when it comes to the enforcement of EU law and solving complaints. The lesson may be that it takes time for rights to be put in practice, but also that there is a deeper failure to connect between political parties, the European Parliament and the group in the population for which it has high relevance. Another reason however for low participation may be that electoral rights are only partial. European citizenship results depending on the member state, in a reduction of electoral rights to the extent that the right to vote in national elections is lost in the country of origin, without being gained in the country of residence. The same applies to regional elections and referenda, even on European issues. The right to vote and stand in all elections and in referenda in another EU member state should be secured for EU citizens.

4. European Citizenship and representative democracy

The political rights of European citizenship are not limited to free movement, since all citizens have the right to vote and stand in the European elections. Since 1999 the participation in the vote has gone down from 64% to below 50% on average in the last European elections in 2004, even though the powers of the European Parliament have been increased in successive Treaty revisions over the same period. This falling turnout

does not reflect a crisis in representative democracy or even lack of interest, since turnout in referenda on European issues has been high. It shows though a lack of credibility about being represented and exerting influence at the European level. Perhaps this is not surprising when European elections resemble second-order national elections to test the popularity of the government and opposition, whilst Europe-wide manifestos are relegated to the background in the contest.

Political parties should present European policy choices, and personalise the campaign with candidates for President of the European Commission and Council. The “Europeanisation” of political parties by stronger links between the national parliaments and the European Parliament, more European lists, the development of the European political foundations mentioned in the fifth report – all these measures could help to make the elections more relevant in the long-run. In the meantime, the June 2009 European elections should be the main target for all EU programmes related to communication, participation and civic education.

To some extent it is not possible to compare elections to the European Parliament with national elections because they do not present a choice between governments. Where choice exists for example in referenda on accession to the European Union or on the Constitutional Treaty, turnout can be much higher and debates on European issues intense. The disadvantage however, of referenda is that they can become dominated by national issues and are used as a test of the popularity of the government in power. Consideration should be given to holding European-wide referenda on the same day in each country on the same specific issue. If citizens of one Member State or a small minority vote “no” to the proposition, they should be asked to confirm in a second referendum that they wish to stay outside the initiative proposed or leave the Union, depending on the importance of the question put to the vote.

5. All European citizens should have a chance to benefit from European Union exchange programmes

As already pointed out, exchange programmes have gradually evolved to become less organized around categories and age groups and to be linked more to concepts of lifelong learning and active citizenship. By 2011, three million students will have taken part in European exchange programmes thus tripling the current numbers. Every 20th child will have participated in an education exchange programme. More and more employees and trainees have become involved in cross-border training programmes and a number of initiatives target young people such as a “youth in action” or the “European voluntary service”. Such programmes should be seen more than just an opportunity to experience other European countries. The Bologna Declaration by Ministers of education set out a much more comprehensive agenda for European citizenship¹⁴. A period of study abroad

¹⁴ The Bologna Declaration can be read or downloaded here: http://www.bologna-bergen2005.no/Docs/00-Main_doc/990719BOLOGNA_DECLARATION.PDF. Also visit the DG Education and Culture website for more information on the Bologna Process: http://ec.europa.eu/education/policies/educ/bologna/bologna_en.html

should be backed up by the recognition of the credits obtained in the university back home and Member States are being involved in a European qualifications framework to bring together the different national systems. Through lack of resources, youth education and training schemes tend to concentrate on the relatively well educated and linguistically competent who might in any case have an opportunity to benefit from Europe. There are far fewer schemes which would give young unemployed school leavers a second chance in another European country or which promote exchanges to match supply and demand on the labor market across borders. The logical next stage should be the gradual process over the next cycle of European multi-annual budgets towards the aim of giving every European citizen at least one opportunity in the course of their life to study, train or carry out voluntary work in another European Union country or in the rest of the world. Modern citizenship carries entitlements. Such should be the logical entitlement of European citizenship and lifelong learning and the obvious accompaniment to the predominance given to free movement rights.

6. There should be a European citizens' agenda

A start has been made with the European Commission's initiative for a citizens' agenda under the slogan a Europe delivering results which affect people's every day lives. Practical measures (such as reducing the cost of roaming charges on mobile phones) often speak more loudly than all the rhetoric about European citizenship. However, this is more a Commission agenda to appeal to citizens rather than one over which they have any democratic ownership. The citizens' agenda should be chosen and shaped by citizens themselves. The new Treaty provides an opportunity to do this by introducing citizens' initiatives whereby over one million people from a significant number of Member States can propose a legislative initiative to the Commission. The implementing legislation to introduce citizens' initiatives should be based on an approach which is not over regulatory involving not only the Commission but also the support of the petitions committee of the European Parliament and one which gives the organizers of the initiative a right to be heard going beyond just consultation at all stages in the decision-making process. The citizens' agenda could in this way become clearly linked to a European citizenship defined in terms of common solutions to trans-national issues such as combating climate change or cross-border social rights or major health scourges.

Citizen participation should not be confined to collecting one million signatures. There are also techniques of participatory democracy giving citizens a greater say in decision-making and in shaping the agenda by random selection of a representative group in the population to formulate recommendations in a citizens' panel or deliberative poll. Ideas such as using Europe Day on 9th May as a European deliberation day should be considered so that the same issues could be tackled across the European Union at the same time by groups of citizens.

The real problem for the European Union is not so much how to engage with citizens since there are already a number of formal and informal channels which can be used for this purpose, but how to respond to them. For all the expansion of the European Union

into new areas of interest in our everyday lives, the capacity of the European Union to act is often severely restricted. Consideration should be given when the Treaties are next revised to include a general citizens clause which would allow the Commission to make proposals to implement a citizens' agenda with the European Parliament and the Council deciding jointly by majority vote on the legislative outcome.¹⁵

7. An active participatory European citizenship has to be supported by a European framework agreement or “compact” with civil society

Faced with distant European Union Institutions, individual citizens are relatively powerless. European Union citizenship is inevitably less individualistic than its local counterpart. It requires citizens to come together in strong associations not only in their own country but across borders. There are the beginnings of a European civil society. Such a society or open public space should not just be for articulating citizens' concerns but also have as much strength as the 14 000 lobbyists working mostly for trade and industry to follow them up with the Institutions. What form should relations between the Institutions and civil society take? The best model is that of the “compact”. Compacts are more than voluntary agreements but they do not seek to over-institutionalize or regulate. They are an open framework for relations stating both shared values and respect for differences between the public and non-governmental spheres. They cover such areas as access to information, consultation, funding arrangements, equal access and fair treatment of minorities. Above all they lay down a requirement of respect for the independence of civil society organizations. They generally include implementing mechanisms for solving disputes and for reviewing progress on a regular basis including oversight by the Parliament to avoid conflict between participatory and representative democracy.

Compacts are applicable to the European Union because they can easily be replicated at different geographical levels and apply not just to policies where citizens should be organized at European level but also to cohesion instruments for social and regional policy where their voice should be heard more at the level of Member States and regional authorities implementing European funds. A start in the direction of a compact has been made with the Commission's standards for consultation. These however should be extended in terms of the new Treaty which makes the principle of participatory democracy more generally applicable to the other Institutions and also to policy areas where consultation is so far lacking or insufficient particularly the cross-sectoral issues and economic policies. The real issue for the European Union Institutions is not just input from citizens and civil society but how they respond and the explanations of why some proposals are accepted and others not so that engagement is encouraged actively.

¹⁵ This is argued more extensively in the publication, “50 questions and answers on citizens and the Treaty of Rome” (ECAS 2007) which can be ordered online www.ecas-citizens.eu .

Article 11, Treaty of Lisbon

1. The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known and publicly exchange their views in all areas of Union action.
2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.
3. The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent.
4. Not less than one million citizens who are nationals of a significant number of Member States may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties. The procedures and conditions required for such a citizens' initiative shall be determined in accordance with the first paragraph of Article 24 of the Treaty on the Functioning of the European Union.

N.B The full text of the new Treaty can be obtained online here:
<http://consilium.europa.eu/uedocs/cmsUpload/st06655-re01.en08.pdf>

8. European citizenship should be developed in the context of the Charter of fundamental rights

The Charter provides an important context for the development of European citizenship because it is much wider in scope covering universal human rights common to the traditions and constitutions of member states, many contemporary concerns in the area of civil liberties, as well as economic and social rights¹⁶. The wide scope is reflected in the six chapters: dignity, freedoms, equality, solidarity, citizens' rights and justice. As a modern re-statement of a classical bill of rights it does include some new features, because, "*it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments...*" There is a prohibition on the reproductive cloning of human beings, human parts, marketing and eugenic practices whilst other provisions are linked to the development of information technology with the stress on data protection for example and the need for pluralism in the media. New, too, is the prohibition of trafficking in human beings, which is defined as a modern form of "slavery."

The charter will become legally binding with the entry into force of the Lisbon Treaty. Opt-outs for the UK and Poland will result in discrepancies in the application of the Charter. They weaken its authority both internally and in the EU's insistence on human rights in its foreign policies. European citizens should have the same standards of legal protection from the charter anywhere in the Union and the opt-outs should be phased out as soon as possible.

¹⁶ The Charter of Fundamental Rights full text: http://www.europarl.europa.eu/charter/pdf/text_en.pdf

By its binding nature, the Charter will strengthen the position of the citizen in the application of community law. The Lisbon Treaty also requires the Union to become a party to the Council of Europe convention on human rights, which will make its actions more accountable to the Strasbourg court, like those of Member States. It will take time for the Charter to make an impact. The eurobarometer, published with the Commission's fifth report on European Union citizenship reveals that only half of the EU population has even heard of the Charter even though it was solemnly proclaimed by the EU in 2000. In the long run though, it will emerge as the expression of the shared values for European citizenship and as a vehicle for civic education. The aim should be to use the Charter which exists, rather than invent new ones.

9. European citizens should have access the European Court of Justice

People assume that as a European citizen they can take their case to the European Court of Justice. The Lisbon Treaty amends article 230 of the present EC Treaty and provides a small opening to the European Court of Justice. A citizen will be able to initiate a proceeding, "*against an act addressed to that person or which is of direct and individual concern to him or her, and against a regulatory act which is of direct concern to him or her and does not entail implementing measures.*" (Article 263 of the Lisbon Treaty). In reality this provision does not go far to improve remedies for citizens since in the field of citizens' rights legal acts are usually directives and not regulations. It is however a step in the right direction. With the Lisbon Treaty the status of the Charter finally becomes a legally binding document which means that citizens may invoke it before national courts. The rights to good administration, effective remedy and fair trial can help encourage speedier and more efficient extrajudicial and judicial remedies for breaches of EU laws.

Citizens find it hard to understand why it is necessary, to defend their European rights, to have to go first to a national court, rather than directly to the European Court of Justice. There is also confusion between the Luxembourg and Strasbourg courts. It is difficult to explain why a Court which is so much in advance of the legislative process in developing the rights of European citizens interprets the Treaty so restrictively on access. If wider access to the European Court could be established, how to make sure that this does not become counterproductive by opening the floodgates? The following approach could be taken:

- ✚ Where remedies have been exhausted at an administrative level and through a formal complaint to the European Commission, a citizen or group of citizens should have a right to appeal to the European court.

- ✚ In similar circumstances, the European ombudsman could be asked to take up the case on behalf of the individual or group without the costs and risks involved of going to court.

10. There should be a vice president in the European Commission and in the European Parliament with responsibility for European citizenship.

Finally, European citizenship is a Cinderella policy of the Union for which everyone and no-one is responsible. Citizenship is a broad concept about rights, access and belonging which concerns both free movement within the Union, channels of communication and redress towards the Institutions, but also a wide range of policies. The degree of specialisation required, even to defend the limited set of European citizenship rights, is an argument against an over-centralising approach. However, as pointed out in the introduction to this 10 point set of proposals, responsibilities are far too scattered. There should be at least a Vice-President of the European Commission and of the European Parliament with a mandate to listen to citizens and be their advocate within the Institutions, whilst giving political support to the different services and procedures designed with citizens in mind. For the Prince to find Cinderella is a question of will and resources and developing in the EU Institutions the administrative culture to deal with not just specialised stakeholders but also citizens.

With preparations for elections in the European Parliament and the appointment of a new European Commission in 2009, now is the right time to consider what European governance structure is necessary for the development of European citizenship.