

The Configuration of Citizenship in (post-)Covid-19 EU: Thoughts on EU Citizenship Report 2020

Western thinking tends to be linear; each moment, each chapter of life, each policy or each historical period is allegedly superseded by others thereby leading to the fading of what preceded it. This succession is often accompanied by the (Western) belief in an upward move or in a more advanced dimension. But various crises in Europe and the world in the 21st century, including the pandemic, have shown that reactions, regressions and backsliding are also parts of a historical time. It is often said that Eastern thinking, on the other hand, does not give a definite arrow to time; the later can move in various directions and, when it does, we should not seek to erase losses, traumas and negativities. Instead, it is advisable to make an effort to mark them, observe them and to proceed with a discernment of the threads that connect past and future, persons and groups, societies and politics, loss and memory. In this way, repair gains traction and configuration begins. Repair and configuration, in turn, open the way to healing and to transformation.

In the European Commission's [EU Citizenship Report 2020](#), which was published on 16 December 2020, I discern elements of both repair and configuration. I say 'repair' because the Commission situates the report within the political landscape of Covid-19 and the concomitant restrictions imposed on free movement, and in the context of social movements for climate change, racism and equality, challenges to democracy and the (positive) developments that have taken place since the previous [2017 Citizenship Report](#). It also contains a strategy of configuration since it sets out priorities and actions (18 actions) to empower and protect EU citizens, thereby acknowledging the impact of externally imposed vulnerabilities in their life worlds.

As Mr Didier Reynders, Commissioner for DG Justice, [stated](#): 'EU citizenship is at the core of the European project. And yet we have seen unprecedented challenges to some of the basic rights we tend to take for granted in Europe – from restrictions to free movement because of the pandemic to challenges to our democratic institutions'. Time is thus ripe to introduce protective measures which contribute to the chain that betters citizens' lives. No one seriously believes that citizens will be healed by ideology or rhetorical promises.

Functioning as a complement to the [action plan on the European democracy](#) and [the new Strategy for strengthening the application of the Charter of Fundamental Rights](#) published by the Commission in early December 2020, the new EU citizenship report envisages a number of concrete actions and priorities for EU citizens in four priority areas, namely:

- a) in the fields of democratic participation, citizen empowerment and inclusion in the EU;
- b) the facilitation of free movement and residence rights and the simplification of daily life;

c) the protection and promotion of EU citizenship by asserting that EU citizenship ‘is not for sale’, thereby addressing Member States’ investment citizenship schemes, and monitoring the impact of Covid-19 restrictions; and

d) protecting EU citizens in Europe and abroad, including in times of crisis/emergency.

To this end, the Commission is fully committed to a multi-actor and multi-dimensional strategy; that is, to a strategy of partnership with the Member States, national local and regional authorities, other EU institutions, the civil society and citizens themselves. Accordingly, the Citizenship report does not posit enemies. Nor does it escape the burden of the present. Instead, it delineates connections and coordinated action in order to protect and empower EU citizens. In a balanced way, the protection of EU citizens’ civil rights (free movement and residence) is also linked to their political rights and the updating of the rules on voting rights for mobile EU citizens as well as to social rights through the building of a [European health Union](#). Furthermore, the internal face of EU citizenship is intimately connected with its external face, that is, with the protection of EU citizens abroad who may face situations of emergency or crisis, such as the difficulties of return to the EU, owing to the restrictions associated with Covid-19. According to the Report, as many as 600,000 EU citizens had to be repatriated to the EU between February and May 2020 (pp. 5, 40).

‘Empowering citizens and protecting their rights’ is a priority for the Commission given that around 13,3 million EU citizens have exercised their free movement and residence rights and continue to face a host of challenges and obstacles. Some of these are new, that is, border-related closures and restrictions due to Covid-19. But one cannot also sidestep the longstanding problem of Member States’ compliance with [Directive 2004/38](#) involving national administrative authorities, national courts, border security agencies and subnational governance, including municipalities. In this respect, the Commission’s intention to simplify cross-border work and travel, including citizens’ tax obligations, and to review and update the [Guidelines](#) it issued in 2009 on the implementation of free movement are important.

There have been calls over the years for an examination in a systematic way of the transposition of Directive 2004/38 by the Member States and the national interpretations of various legal terms contained in it which restrict the scope of the fundamental freedoms of movement and residence in the European Union.¹ Here, one could hope that the publication of the new guidelines on free movement will be followed by an EU-wide study on the role and the effectiveness of national courts in exercising oversight over the implementation and enforcement of EU law by national authorities. In national courts, EU citizens expect to get justice. However, this is often nothing more than an expectation

¹ See, for example, ECAS’s policy papers: <https://ecas.org/wp-content/uploads/2020/06/Towards-a-Citizen-Centric-European-Union.pdf>; <https://ecas.org/wp-content/uploads/2020/02/Policy-paper-final-07022020.pdf>

particularly in those national arenas where corruption affects the independence and impartiality of the judiciary.

Welcome are the Citizenship Report's references to the provision of support to EU citizens who might resort to rough sleeping in the Member State of residence as well as the Commission's pledge to protect the rights of all EU citizens (EU citizens in the UK and UK nationals in EU Member States) affected by Brexit. In fact, a specific action (Action 8) reflects the Commission's explicit commitment to 'continue to support the protection of the rights of EU citizens who, as a result of exercising their right to free movement while the UK was still a member of the EU, were resident in the UK before the end of the transition period' (p. 25). The correct implementation of the citizens' rights part of the Withdrawal Agreement is pronounced to be a 'top priority for the Commission' (p. 25).

The environment in certain host Member States also contributes to an ineffective exercise of EU political rights at local and regional level, as detailed in the Report. Difficulties in the electoral registration process, lack of awareness of the relevant rules, deadlines and processes, insufficient awareness of rights, underrepresented categories of voters, such as persons with disabilities and of a minority racial or ethnic background, all contribute to creating obstacles in the exercise of political rights. In an attempt to overcome this problem, the Commission will update the directives on voting rights of mobile EU citizens in municipal and European elections² (Action 1) and has announced the 'possibility of creating a dedicated shared resource to support EU citizens in exercising their electoral rights' (Action 2). Equally important is an increased involvement by citizens at all stages of the democratic process; hence, the Commission's proposed Action 4 on the promotion of the active participation of citizens in the democratic process, including their possible involvement in the legislative process. Innovations in the design of deliberative democratic avenues in our digital age and the forthcoming [Conference on the Future of Europe](#) will provide opportunities for inclusive, bottom up, participation and for transnational debates on the future of Europe.

Under the thematic area 'Protecting and Promoting EU citizenship', the Report explicitly acknowledges the interconnection between EU citizenship and fundamental rights: 'EU citizenship is underpinned by common values, encompassing the respect for democracy, rule of law, equality and fundamental rights' (p. 29). This is a very important acknowledgment and a guidepost for citizens' protection and empowerment. The common values referred to above are none other than the values stated in [Article 2 TEU](#) (p. 33) and the realisation of those values is aligned with the Commission's actions with respect to 'golden passports', the creation of a rule of law culture, the support of citizenship education and Erasmus+, the forthcoming action plan for social economy as well as ongoing work in the fields of equality and non-discrimination.

² Council Directive 94/80/EC and Directive 93/109/EC.

The final thematic area focuses on the protection EU citizens in the EU and abroad. The recovery programme of EUR 750 billion, as well as targeted reinforcements to the 2021-2027 EU budget will address aspects of the impact of the pandemic, but more needs to be done to prepare the EU and the Member States for health crises in the future. The Commission has been laying the foundations for a resilient 'European Health Union', by proposing a new EU health programme - EU4Health (p. 38), by implementing the European Pillar of Social Rights and by helping young EU citizens. Action 17 states: 'the Commission will increase its support for young EU citizens, including those from disadvantaged groups, to help them access education, training and finally the labour market through the strengthened Youth Guarantee scheme.' And as regards the protection of EU citizens abroad, the Commission acknowledges the lessons of the Covid-19 crisis and the need to protect between EU citizens travelling abroad. For this reason, it pledges the review of the [consular protection directive](#) as well as the possibility of using [Article 25\(2\) TFEU](#) in order to expand the citizenship right to consular protection under Article 23 TFEU (Action 18).

In comparison to previous EU citizenship reports, it seems to me that the present one is much more explicit in the actions the Commission intends to take, more holistic in its content and more protective of EU citizens' rights, 'lives and livelihoods' (p. 45). It is also more attuned to the 'time identity' of the EU and the need to use the experiences of Covid-19 as a means of developing a new role and effective agenda for EU citizenship. I would have liked to see more explicit commitments to combatting poverty and homelessness in the EU as well as to preventing the Member States from 'creative interpretations' of legal terms that securitise intra-EU mobility and procure the deportability of EU citizens from Member States of residence. But I am also aware that there are limits on what the Commission can do. One can only hope that the 18 Actions of the 2020 EU Citizenship Report will reverse the present trend of rights' erosion in Europe and will lead to transformative changes in the lives and experiences of EU citizens in the next three years. This is, in fact, a wider invitation to all institutions and layers of governance beyond borders, strife and ideology to value, protect and respect human beings and their fundamental rights.