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## Problems and prospects concerning European citizenship

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### European Parliament resolution of 2 April 2009 on problems and prospects concerning European Citizenship (2008/2234(INI))

(2010/C 137 E/03)

*The European Parliament,*

- having regard to the Charter of Fundamental Rights of the European Union, and in particular Title V thereof entitled 'Citizens' Rights',
  - having regard to the Report from the Commission of 15 February 2008 entitled 'Fifth Report on Citizenship of the Union (1 May 2004 – 30 June 2007)' (COM(2008)0085),
  - having regard to Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States <sup>(1)</sup> (the Free Movement Directive),
  - having regard to the own initiative opinion of the Committee of the Regions of 9 October 2008 on Citizens' rights: Promotion of fundamental rights and rights derived from European citizenship <sup>(2)</sup>,
  - having regard to Rule 45 and Rule 112(2) of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on the Internal Market and Consumer Protection, Committee on Legal Affairs, Committee on Constitutional Affairs and Committee on Women's Rights and Gender Equality (A6-0182/2009),
- A. whereas the common market and economic integration are nearing true completion, although the legal basis for Union citizenship is still at the development stage,
- B. whereas Article 17 of the EC Treaty introduced by the Maastricht Treaty states that 'every person holding the nationality of a Member State shall be a citizen of the Union', and that principle was further developed by the Treaty of Amsterdam which stipulates that 'citizenship of the Union shall complement and not replace national citizenship',
- C. whereas Union citizenship is therefore an addition to the citizenships of the Member States and, as such, its granting is regulated by each Member State on the basis of its own laws, which differ among the Member States,
- D. whereas identity as a Union citizen can be based only on national identity, and the Commission's attention should be drawn to the fact that people living in deep poverty, and people with a low level of schooling - among them Roma - do not have access to the amount of information that could motivate their European awareness; whereas their growing exclusion from European societies devalues both their citizenship and Union citizenship,
- E. whereas, however, without prejudice to the power of individual Member States to determine the ways of acquiring and losing citizenship, the Tampere European Council of 15 and 16 October 1999 endorsed 'the objective that long-term legally resident third-country nationals be offered the opportunity to obtain the nationality of the Member State in which they are resident',

<sup>(1)</sup> OJ L 158, 30.4.2004, p. 77.

<sup>(2)</sup> OJ C 325, 19.12.2008, p. 76.

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- F. whereas all Union citizens are entitled to vote and stand for election in local and European elections in the Member State of their residence under the same conditions as citizens of that Member State,
- G. whereas granting the right to vote and stand for election in local elections in the Member State of residence is essential for Union citizens in order to create a sense of genuinely belonging in that Member State,
- H. whereas in some Member States, the right conferred on Union citizens by Article 19 of the EC Treaty to vote and stand in local and European elections is currently undermined to the extent that Union citizens who are nationals of another Member State are not entitled to become members of political parties in the Member State where they are supposed to exercise that right,
- I. whereas recourse to Parliament's Committee on Petitions and to the European Ombudsman is an important non-judicial means of redress available to Union citizens,
- J. whereas the enlargement of the European Union has resulted in a considerable increase in the number of Union citizens residing outside their Member State of origin,
- K. whereas Article 20 of the EC Treaty, although unfortunately restricted to the situation where a citizen of a Member State is in the territory of a third country where that Member State is not represented, entitles every Union citizen to the diplomatic or consular protection of any Member State which is duly represented in that third country; whereas, that right cannot be properly exercised in the absence of clear and binding practical rules and protocols to be followed by the consular authorities,
- L. whereas although that same Article 20 of the EC Treaty imposes an obligation on the Member States to 'establish the necessary rules among themselves and start the international negotiations required to secure this protection', the fact remains that only one binding act has so far been adopted, namely Decision 95/553/EC <sup>(1)</sup>, which entered into force in 2002 and consists of only one page that completely fails to establish a fully-fledged system to assist and alleviate the suffering of Union citizens abroad in a crisis situation,
- M. whereas, in particular in a situation of crisis and personal suffering, effective consular and diplomatic protection granted outside the territory of the European Union without distinction by all Member States to all Union citizens would significantly contribute to the appreciation by those citizens of the advantages of being part of the European Union,
1. Welcomes the fact that the Treaty of Lisbon makes it possible for one million Union citizens from different Member States collectively to invite the Commission to submit legislative proposals, and believes that such a legal right will significantly raise awareness of Union citizenship among Europeans; recalls that transparency and democratic participation must be achieved by a variety of forms of partnership among the EU and Member States, regional and local institutions, social partners and civil society; calls on the Commission to prepare transparent and easily understandable procedures implementing the 'citizenship initiative', so that Union citizens are able to effectively initiate legislation immediately after the Treaty of Lisbon enters into force; while it hopes that it will not be necessary, stresses that the Commission should incorporate this right of initiative into its policies regardless of the final status of the Treaty;
2. Notes that the right of Union citizens to move and reside freely within the territory of the Member States cannot be viewed in isolation from other rights and basic principles of the European Union, such as the freedom of movement of workers and the freedom to provide services; and therefore calls on the Member States to lift their existing barriers set up pursuant to the Accession Treaties in order to enable all citizens to exercise all of their rights;

<sup>(1)</sup> Decision of the Representatives of the Governments of the Member States meeting within the Council of 19 December 1995 regarding protection for citizens of the European Union by diplomatic and consular representations (OJ L 314, 28.12.1995, p. 73).

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3. Recommends, in the light of the fundamental EC Treaty principles of free movement, non-discrimination and citizens' rights, that the Commission continue to use all available means to achieve the lifting of the remaining transitional arrangements imposed on the 'new' Member States as soon as possible;
4. Is concerned by the poor implementation of current directives, especially the Free Movement Directive, which causes many problems relating to free movement and other rights of Union citizens, and calls on all parties to correctly and fully transpose and implement the Community acquis;
5. Calls on the Commission to produce a list of the obstacles facing Union citizens wishing to make full and unhindered use of the free movement of persons and other established advantages for Union citizens, and asks the Commission to incorporate the results in a scoreboard so as to ensure that such obstacles are dealt with thoroughly and effectively;
6. In the light of the findings of Eurobarometer Flash 213 (a 2007 Eurobarometer survey) to the effect that only 31 % of the respondents considered themselves well informed about their rights as Union citizens, considers it vital to adopt an effective approach to information and communication aimed at making Union citizens aware of their rights and obligations and helping them to assume an active role in EU decision-taking, thus enabling participatory democracy to be genuinely exercised;
7. Notes with regret that the Fifth Report on Citizenship of the Union contains no concrete proposals concerning the exercise by citizens of their rights and the duty of the Member States to safeguard those rights in practice; asks that the Sixth Report be more proactive in this respect;
8. Expresses its disappointment at the Commission's failure to consult civil society in the preparation of the Fifth Report, and expects such consultation to take place as part of the preparation of the Sixth Report, as pledged by the Commission;
9. Calls on the Commission to revise its 'Europe for Citizens' Programme to improve communication with the average Union citizen and to ensure broad dissemination; notes that while structural support for Brussels-based think-tanks and research institutes is important, such organisations do little to inform individuals other than those who are already informed; calls on the Commission refocus its funding on non-Brussels based regional and local civil society and social partner organisations and to introduce, in the future, programmes similar to very successful 'Youth in Action Programme 2007-2013' to help local and regional governmental authorities to inform their residents of their rights as Union citizens; since proposals for multilingualism should not be limited to the main official/ Member State languages, calls on the Member States to disseminate information about Union citizenship also in regional and minority languages;
10. In view of, among other things, the low number of Union citizens resident in a Member State other than their own who exercise their right to vote or stand in either European or local elections in their place of residence, as well as the practical obstacles that potential voters are too often confronted with in the exercise of their rights, takes the view that the 2009 European elections should be seen as an opportunity for the preparation and application of a pan-European action plan designed to develop the EU identity of Union citizens and to raise their awareness of their rights;
11. Calls for women to participate on a larger scale in politics and decision-taking so as to promote European integration; to that end, believes that they need to be the target of more clear-cut awareness campaigns, the object being to enable them to exercise their rights as Union citizens to the full and be more active within political groupings, in politics, and in connection with the work of local authorities in the Member State of their residence;
12. Points out the need to launch better and more effective information campaigns that promote Union citizenship rights among young people such as setting up a 'citizenship programme' in schools and universities, with a view to preparing the younger generation for active citizenship;
13. Believes that Member States should incorporate the European dimension into school syllabuses at primary and secondary levels;
14. Calls on European universities to take all financial measures within their means to increase the percentage of students who take part in exchanges within the Erasmus programme;

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15. Calls on the Commission to propose further consolidated and clarified directives improving free movement and other rights for Union citizens in other fields, including in the area of professional mobility, the portability of pensions and social rights and the mutual recognition of degrees and professional qualifications;
16. Points out that the right to move and reside freely within EU territory will be impossible to exercise to the full unless, among other measures, an effective system is established for the recognition of professional qualifications; therefore urges the Commission and the Member States, acting within their respective spheres of competence, to enable greater numbers of Union citizens holding professional qualifications obtained in one Member State to be admitted to a corresponding profession in another Member State and to practise that profession on the same terms as citizens of the latter Member State;
17. Calls on Member States to review their citizenship laws and explore the possibilities of making it easier for non-nationals to acquire citizenship and enjoy full rights, thereby overcoming discrimination between nationals and non-nationals, notably for Union citizens;
18. Considers that it would be desirable to encourage an exchange of experiences regarding the naturalisation systems existing in the various Member States with a view to achieving closer coordination of the eligibility criteria and procedures for Union citizenship – without encroaching on the power of individual Member States to determine the ways of acquiring and losing citizenship – and hence to reducing the instances of discrimination inherent in the different legal systems;
19. Considers that stateless persons permanently resident in Member States are in a unique position in the European Union; is concerned that some Member States impose unwarranted demands on them or demands which may not be strictly necessary in order to obtain citizenship; in this regard calls on those Member States to systematically bring about just solutions, based on the recommendations of international organisations; believes that stateless persons permanently resident in the Member States should have the right to vote in local elections;
20. Reminds the Member States, local authorities and immigrants that all the points of the Council Common Basic Principles for Immigrant Integration Policy in the European Union (14615/04) must be applied equally;
21. Considers the integration of immigrants to be a basic prerequisite for the exercise of their rights in the Member State of their residence; calls, therefore, on the Member States to give rapid and full effect to the recommendations set out in the Commission Communication of 1 September 2005 entitled 'A Common Agenda for Integration of Third-Country Nationals in the European Union' (COM(2005)0389);
22. Considers that the EU and the Member States have a shared responsibility to promote the inclusion of the Roma as Union citizens with a view to enabling the Roma people to fully benefit from the incentives provided by the EU for all initiatives aimed at promoting their rights and the inclusion of their communities, whether in the field of education, employment or civic participation;
23. Points out that Union citizenship involves duties and not only rights; draws particular attention to the duty to comply with the laws of the State in which the Union citizen concerned resides and to respect the cultures of other people;
24. Stresses that problems of language or communication skills should not be used as grounds to deny access to social rights to which an individual maybe entitled as a resident of a Member State, including the right to social benefits granted by a national or local authorities;
25. Calls on the Commission to investigate the role and behaviour of national child welfare services to ensure that the principles of equality and non-discrimination between Union citizens are respected; stresses that parents should be allowed to speak in their mother tongue to their children and that nationality or language should not be used as grounds to deny parents access to their child;
26. Re-iterates its call for Member States to respect the right of Union citizens to travel within the EU with either a valid national identity card or a valid passport and not to restrict such movement on the grounds of security or for other reasons, especially in the area of air and sea travel;

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27. Calls on Member States and local authorities to take further measures to facilitate the movement of Union citizens between Member States, especially with regard to practical issues such as issuing residence papers, work permits, the transfer of vehicle registrations, recognition of personal and vehicle insurance policies issued in another Member State, the transfer of medical records, clear rules on the reimbursement of medical expenses, among many other issues, which very often do not function properly despite efforts to harmonise them at EU level; and calls on the Commission to collect all relevant information and make it available to Union citizens;

28. Recommends that the European area of justice be completed in order to ensure that the cross-border aspects of citizenship relating to personal and family life can be effectively protected by common rules in the field of private international law; to that end, urges the Commission to develop a coherent approach and to put forward the necessary legislative proposals;

29. Calls on the Commission to make funding available for the training of Member States' local and regional civil servants who deal with intra-EU migrants in the basics of the EC legislation that applies in their respective fields, and to help administrations in answering questions concerning possible differences and conflicts between national and EC legislation; in this respect welcomes the SOLVIT online problem-solving network provided by the Commission and calls for it to be further strengthened and promoted; hopes that, by increasing human as well as financial resources, Member States will help to bolster the national SOLVIT centres; urges local and regional authorities and Member States to cooperate in exchanges of good practice and in finding effective ways of dealing with the situation of intra-Community migrants;

30. Believes that Europe Direct should be promoted better to all citizens, and recommends that an EU-level media campaign be coordinated by the Commission to that end; calls on the Commission to monitor the proliferation of websites relating to Europe Direct and SOLVIT and to focus key information and contacts on specific reference websites;

31. Calls on the Commission to develop a European Charter for Consumer Rights to provide easily accessible information to citizens on their most common problems;

32. Welcomes the Commission's 'Action plan on an integrated approach for providing Single Market Assistance Services to citizens and businesses' (SEC(2008)1882) in order to avoid fragmentation of contact points and, as stressed in the Services Directive<sup>(1)</sup>, encourages the creation of single contact points for services and goods in each Member State;

33. Reminds the Member States and local authorities that the concept of Union citizenship includes the principle of non-discrimination of all Union citizens, and not only of citizens of a particular Member State; urges the Commission to further its analysis of the situation of intra-EU migrants and to take appropriate action in order to ensure that they genuinely enjoy rights as Union citizens;

34. Points out that the right of free movement is a linchpin of Union citizenship and therefore finds it highly disturbing that no Member State has yet fully and properly implemented the Free Movement Directive;

35. Welcomes the Commission's initiative to promote knowledge of the new rules set out in the Free Movement Directive, including the publication of the 'Guide on how to get the best out of Directive 2004/38/EC', but regrets the fact that the 16 000 copies of the Guide, published in 19 languages, are too small a quantity compared with the total number of people living in the EU; calls on the Commission to ensure that this information is made widely available to local and regional authorities, which are the first source of information for many citizens and as it is at local levels where most problems and infringements of Union citizens' rights take place;

36. Stresses that the right of free movement and residence, which plays a full part in Union citizenship, has a tremendous impact on family life and women's educational and professional choices; therefore invites the Commission to take into consideration women's specific needs in this field;

<sup>(1)</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

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37. Recalls the provisions of the Free Movement Directive which give Union citizens the right to reside in another Member State, provided they are not a burden on the social assistance system; notes, however, that Member States should comply with the rulings of the European Court of Justice<sup>(1)</sup>, which have provided interpretation, for the purposes of the Directive, on the meaning of the expression 'sufficient resources';

38. Calls on the Commission to check carefully in order to ascertain that laws and practices in force in individual Member States do not violate the rights conferred on Union citizens by the EC Treaty and the Free Movement Directive, especially as regards the concepts of 'sufficient resources', 'an unreasonable burden on the social assistance system of the host Member State', 'serious grounds of public policy or public security', and 'imperative grounds of public security'; calls on the Commission, in addition, to ascertain that there are procedural safeguards operating at the practical level, together with legal protection arrangements and the possibility of appealing to the courts against removal measures; points out that any restriction on the fundamental right to free movement must be interpreted in a narrow sense;

39. Calls on the Member States, when giving effect to the right to free movement, to refrain from encumbering Union citizens and their family members with red tape that would be unwarranted to the extent that it is not expressly laid down in the Free Movement Directive and is contrary to Community law, and would impede the exercise of a right which, leaving aside the performance of administrative procedures, is provided for as such in the EC Treaty; points out to the Member States that they have a duty to facilitate completion of the administrative procedures linked to the exercise of the right of free movement;

40. Calls on the Member States to refrain from adopting legislative acts imposing penalties that would be excessively harsh or discriminatory in relation to Union citizens, such as, for example, detention in the event of removal from the territory of a host Member State, invoking an aggravating circumstance on the grounds that a Union citizen who had committed an offence had previously resided illegally in another Member State, or automatic removal of a Union citizen because he or she had been convicted of a criminal offence;

41. Warmly welcomes the Commission's intention to insert measures in the Stockholm Programme aimed at addressing the problems faced by Union citizens during their life cycle in the EU; asks the Commission to propose, within this framework, appropriate measures, including in the field of civil law, to finally implement the principle of equal treatment not only in relation to goods, capitals and services, but also in relation to persons without discrimination as listed under Article 13 of the EC Treaty, as the current situation constitutes a barrier to free movement and is contrary to the common European values of equality and non-discrimination;

42. Maintains that granting the right to vote and stand for election in local elections in the Member State of residence is a *sine qua non* for any effective integration policy;

43. Calls on the Member States to ensure that all Union citizens residing in a Member State other than their own are provided with all the necessary information regarding their right to vote at local and European elections;

44. Regrets the low number of Union citizens resident in Member States other than their own who take advantage of the right to vote or stand in either European or local elections in their place of residence; notes the practical obstacles that too often confront potential voters in the exercise of their rights; urges the Commission, Member States and local authorities, in view of the imminent 2009 European elections, to launch pan-European, effective information campaigns about the electoral rights of Union citizens and give practical advice on how to exercise them at local level;

45. Calls on Member States to launch on national and local media, including television, radio and the internet, information campaigns in official languages of the EU to inform Union citizens about their right to vote and stand in elections, as well as about registration procedures, which should be as easy as possible;

<sup>(1)</sup> Among others cases: C-424/98, *Commission v Italian Republic*, and C-184/99, *Grzelczyk*.



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46. Welcomes the Commission's move to amend Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals <sup>(1)</sup>, whereby steps are to be taken to reduce the costs to be borne by candidates and Member States;

47. Calls for the necessary reforms of the European election procedures in all Member States, with a view to making those procedures more similar and finding ways to promote active Union citizenship, and calls for appropriate information campaigns to be conducted once those reforms are completed;

48. Notes that there are significant discrepancies for Union citizens living in a Member State other than their own with respect to voting rights in national parliamentary elections in their Member State of origin; deplores the fact that many Union citizens thus find themselves disenfranchised both in their Member State of origin and in their adopted Member State; urges Member States to cooperate in order to enable voters residing outside their Member State of origin to exercise their full electoral rights in their Member State of residence, by providing a sufficient number of polling stations covering all the territory and by facilitating easier registration of voters; calls on the Member States also to adopt the necessary legal provisions to guarantee the right to vote for all Union citizens transiting a Member State other than their Member State of origin when national parliamentary elections are being held;

49. Considers that the rise and spread of political parties at European level is the most effective way to underpin the right to stand for election for a Union citizen living in one Member State and having the nationality of another; hopes, therefore, that Europe-wide parties will be strengthened, not least through greater financial support;

50. Ask the Commission, the Council and the Member States to improve the real effectiveness of Article 19 of the EC Treaty by ensuring that all Union citizens are entitled to be members of political parties in the Member State where they have their place of residence;

51. Considers that Union citizenship guarantees the same rights for all Union citizens, whether or not their place of residence is situated in the Union itself or a third country; urges the Commission to analyse the situation of Union citizens resident outside EU territory and take appropriate steps to ensure that their citizenship rights become effective;

52. Recalls that, on the basis of Article 20 of the EC Treaty, Union citizens in the territory of a third country in which the Member State of which they are a national is not represented are entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that Member State, and emphasises the importance of such a provision as a point of principle, insofar as it is intended to acknowledge the external dimension of Union citizenship;

53. Welcomes the presentation by the Commission of an action plan for the period 2007-2009 in its Communication of 5 December 2007 on effective consular protection in third countries: the contribution of the European Union (COM(2007)0767); calls on the Member States and the Commission to further implement the recommendations of the Commission Green Paper of 28 November 2006 on diplomatic and consular protection of Union citizens in third countries (COM(2006)0712), and those of Parliament's resolution on the same topic of 11 December 2007 <sup>(2)</sup>;

54. Calls on those Member States which have not already done so to print Article 20 of the EC Treaty inside their national passports alongside national information, as called for by the Barnier report and the Council Conclusions of 15 June 2006; calls on the Commission to provide passport-issuing offices in each of the Member States with a brochure setting out these rights and a general outline of the measures which support Article 20 of the EC Treaty; requests that the brochure be distributed to individuals who collect their new passports; calls on the Commission to set up a web page on the 'Europa' site to publish practical information on consular protection and facilitate access to Member States' travel advice notices, as called for by the Commission's 2007 Action Plan;

<sup>(1)</sup> OJ L 329, 30.12.1993, p. 34.

<sup>(2)</sup> OJ C 323 E, 18.12.2008, p. 120.

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55. Urges the Commission to set up a free European telephone number, to be shown in the passport next to Article 20 of the EC Treaty, by means of which in an emergency Union citizens can obtain details in their own language of the Member States' consulates so as to secure the assistance they require;
56. Calls on the Commission and the Council to adopt further directives and other measures to strengthen the Community acquis in the field of diplomatic and consular protection and to enact legally binding rules for the implementation of Article 20 of the EC Treaty;
57. Calls on the Union to take further measures to protect its citizens in third countries, including taking action to prevent a Union citizen being subjected to the death penalty;
58. Calls on Member States to properly comply with the obligation set out in Article 20 of the EC Treaty, and therefore to establish the necessary rules among themselves and start the international negotiations required to secure the protection of Union citizens outside the European Union, with particular attention being paid to the approval of binding protocols of action to be followed by consular services in third countries in the event of an emergency, or of a security or humanitarian crisis;
59. Welcomes the recent adoption by the Council of guidelines on the implementation of the consular Lead State concept <sup>(1)</sup> for the designation of a Lead State in the event of a major crisis and calls for a wider interpretation of Article 20 of the EC Treaty regarding the consular and diplomatic protection actually afforded to Union citizens;
60. Calls on the Commission to continue to negotiate visa-free travel to third countries on behalf of all Member States and Union citizens; notes the injustice inherent in some Union citizen being subject to visa requirements while others are able to travel under national visa waiver programmes;
61. Considers that the status of the right to petition as a fundamental right of Union citizens would, at the very least, require the Commission to give sufficient reasons for not following a recommendation by Parliament;
62. Calls on the Council and the Commission to develop closer cooperation with Parliament's Committee on Petitions and the European Ombudsman so that all Union citizens are able to exercise their rights more effectively;
63. Welcomes the fact that the European Union Agency for Fundamental Rights has been set up and the adoption of Council Decision 2007/252/EC of 19 April 2007 establishing for the period 2007-2013 the specific programme Fundamental rights and citizenship as part of the General programme Fundamental Rights and Justice <sup>(2)</sup>, the purpose of which is to promote the development of a European society founded on respect for fundamental rights, including the rights deriving from Union citizenship;
64. Calls on national parliaments to become increasingly involved in developing the area of Freedom, Security and Justice; cooperation between national parliaments and the EU institutions should facilitate the adaptation of national legislation and practices when implementing EU law, and enhance communication with citizens, making them aware of the rights attaching to the status of Union citizen;
65. Instructs its President to forward this resolution to the Council, the Commission, and to the governments and parliaments of the Member States.
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<sup>(1)</sup> OJ C 317, 12.12.2008, p. 6.

<sup>(2)</sup> OJ L 110, 27.4.2007, p. 33.