



Commission des Episcopats de la Communauté Européenne  
Commission of the Bishops' Conferences of the European Community  
Kommission der Bischofskonferenzen der Europäischen Gemeinschaft

42, rue Stévin  
B - 1000 Brussels  
Tel.+ 32 (0)2 230 73 16  
Fax+ 32 (0)2 230 33 34  
E-mail: comece@glo.be

**Contribution by the**  
**COMMISSION of the BISHOPS' CONFERENCES of the EUROPEAN**  
**COMMUNITY**  
**- COMECE -**  
**to the Draft**  
**CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION**

**Document of the COMECE Secretariat**

**8 February 2000**

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Translation from the **ORIGINAL FRENCH** version

## **I. Text**

### ***Preamble***

ON BEHALF OF THE PEOPLES OF EUROPE,

CONSIDERING the Universal Declaration of Human Rights, proclaimed by the United Nations General Assembly of 10 December 1948,

CONSIDERING the European Convention for the Protection of Human Rights and Fundamental Freedoms, adopted by the Council of Europe on 4 November 1950,

CONSIDERING the European Community Charter of Fundamental Rights of Workers, adopted by the European Community on 9 December 1989,

CONSIDERING the revised European Social Charter, adopted by the Council of Europe on 3 May 1996,

CONSIDERING the respect for fundamental rights resulting from constitutional traditions common to the Member States, as one of the general principles of Community law,

RECALLING that all human beings are equal in dignity and under the law,

CONFIRMING that recognition of the inherent dignity of all members of the human family and the protection of their inalienable rights is the foundation of freedom, justice and peace in the world,

REAFFIRMING that the European Union is founded on the principle of freedom, democracy, respect for human rights and fundamental freedoms, the rule of law and justice,

RESOLVED to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen, in accordance with the principle of subsidiarity,

DESIRING to further enhance the democratic and efficient functioning of the institutions to enable them to better carry out the tasks entrusted to them in the respect of human dignity and fundamental rights,

the High Contracting Parties have agreed as follows.

### ***Right to life***

Human life has an absolute value.

Every human being has the right to respect for his/her life from its beginning until its natural end.

Every human being has the right to be born of a man and a woman.

These rights must be specially safeguarded in medical and biotechnological applications, as well as in the context of research.

### ***Family rights***

The family is the natural and fundamental element of society and is entitled to protection by society and the State.

The right of men and women of marriageable age to marry and to raise a family shall be recognised, if they meet the conditions required by domestic laws, insofar as such conditions do not affect the fundamental principles established in this Charter.

No marriage shall be entered into without the free and full consent of the intending spouses.

The choice of one of the two spouses to stay home to take care of the children shall be protected.

Equal rights and judicious sharing of responsibilities between the spouses as to marriage shall be laid down in national law, during marriage and upon its dissolution. In the event of dissolution of the family, the law shall make the necessary provisions to ensure proper protection of the children, solely in their interest and for their wellbeing.

The law recognises that children born outside of wedlock have the same rights as those born in wedlock.

### ***Freedom of thought, conscience and religion***

Everyone has the right to freedom of thought, conscience and religion; this right includes the freedom to change one's religion or belief, as well as the freedom, either alone or in community with others and in public or private, to manifest one's religion or belief through worship, teaching, practice and observance.

Freedom of religion also includes the right for the Churches and religious associations or communities in the Member States to lay down all practical or legal acts relating to religion.

### ***Right to education***

Everyone has the right to education, which shall be based on the principles of freedom, dignity and solidarity. In the exercise of any function it may assume in the field of education, the Union shall respect the right of parents to provide for such education in line with their religious and philosophical convictions.

The right to religious education, provided for in accordance with the rules laid down in national law, is recognised to parents and to pupils.

### ***Right to political asylum***

All persons who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, are outside the country of their nationality and are unable or, owing to such fear, are unwilling to avail themselves of the protection of their country, have the right to request asylum in a State of the European Union.

No refugee shall be sent to a place where he/she is at risk of once again being persecuted.

### ***Right to fair and proper access to health care***

Everyone has a right to fair access to proper quality health care.

### ***Right to protection against any form of discrimination on the grounds of health or genetic characteristics***

Everyone has a right to protection against any form of discrimination on the grounds of health or genetic characteristics.

### ***Right of disabled people***

Whatever the origin or nature of their disability, all disabled persons have the right to benefit from additional measures to promote their occupational and social integration, mobility and living conditions.

### ***Right to rest and leisure***

Everyone has a right to rest and leisure, including reasonable limitation of working time and periodic holidays with pay. This right includes the respect of Sunday, a day of rest common to all Member States and, as such, an expression of their identity and a part of their common cultural heritage.

### ***Right to social protection and to satisfy basic material needs***

Every worker in the European Union has a right to proper social protection and, irrespective of his/her status or the size of the enterprise for which he/she works, is entitled to an adequate level of social security benefits.

All persons legally resident on the territory of the Union who are excluded from the labour market either because they have not been able to enter it or because they have not been able to rejoin it, and who have no means of subsistence are entitled to adequate benefits and resources in line with their personal or family situation.

Pregnant women without the means of subsistence necessary for their personal or family situation are entitled to receive benefits and resources permitting them to take responsibility for their condition.

### ***Protection of the elderly***

Every worker in the European Union is entitled, when he/she retires, to benefit from sufficient resources to ensure that he/she has a decent standard of living.

Any person legally resident in the territory of the Union who has reached retirement age but has been excluded from entitlement to a pension and who has no other means of subsistence, is entitled to benefit from adequate resources and from welfare and medical assistance in line with their specific needs.

### ***Rights of children in the labour market***

In accordance with Article 1 of the 1989 Convention on the Rights of the Child, "child" means any human being under the age of 18, except where the age of majority is earlier under the legislation applying to him/her.

All young workers have a right to suitable initial vocational training, as well as to protection that takes into account their specific situation in the labour market.

The European Union shall respect the age of 18 as the minimum working age. However, derogations may be provided for young employees carrying out light work that is unlikely to affect their health, moral upbringing or education.

Children who are still subject to compulsory education shall never be employed in work that deprives them of the full benefit of such education.

Young workers have the right to fair pay. Their hours and days of work shall be limited in order to avoid harming the development of their health and personality.

National law shall ensure special protection against any physical or moral dangers to which children might be exposed, especially those resulting directly or indirectly from their work.

## **II. Explanatory memorandum**

### ***General comments***

The Commission of the Bishops' Conferences of the European Community (COMECE) welcomes the decision adopted at the Cologne European Council in June 1999 to draw up a Charter of Fundamental Rights of the European Union. Protecting the fundamental rights of people in a way that is legally enforceable against the European Union and its organs is an important initiative to which COMECE attaches great value.

Since it is anxious to participate in a joint drafting of this Charter, the General Secretariat of the Commission of the Bishops' Conferences of the European Community (COMECE) is submitting a number of specific draft texts, together with a Memorandum to explain their scope.

The rights enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the acknowledged rights and freedoms of European Union citizens in the treaties of Maastricht and Amsterdam have now been adopted throughout the European Union. They have not been included in the draft submitted by COMECE, except where they sometimes appeared to need supplementing. Nonetheless, all of the rights and freedoms to which the European Union Member States have subscribed in the above treaties will, of course, need to be included in the Charter, either by referring to the said treaties or by fully integrating the text of the rights enshrined in the respective treaties.

Obviously a rational solution would be for the European Union to become a signatory of the European Convention for the Protection of Human Rights and Fundamental Freedoms. And it would be desirable for the forthcoming Intergovernmental Conference to adopt this decision.

The rights included in COMECE's proposal have been drawn up in the desire to give them binding legal force. Some of these rights relate to matters that already form part of the European Union's remit. Others are the remit of the Member State national authorities but, should the European Union's action encroach directly or indirectly upon their remit, it would be appropriate to ensure that these fundamental rights are respected.

In drawing up the draft articles, COMECE largely based its proposals on internationally agreed texts, i.e. the 1948 Universal Declaration of Human Rights, the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, the 1961 European Social Charter, the 1966 International Covenant on Civil and Political Rights, the 1969 American Convention on Human Rights and the 1989 Convention on the Rights of the Child.

### ***Preamble***

The preamble states that this Charter has been adopted on behalf of the peoples of Europe. This reference confirms the authors' desire to ensure that the initiative remains close to citizens.

In the preamble, reference is also made to the main international texts on fundamental rights to which the Member States have adhered, as well as to the European Union's major objectives.

Finally, the preamble underscores that these fundamental rights are rooted in a concern for the respect of human dignity.

### ***Right to life***

It should be self-evident that this is the most important of all the fundamental rights. However, as a result of scientific advances, developments could result in certain abuses that undermine human dignity. For instance, current cloning techniques have shown that it is becoming possible to reproduce life without any merging of gametes, i.e. without an egg having been fertilised by a sperm.

Taking into account developments in scientific research, it is becoming an urgent matter to lay down absolute respect for human life and dignity.

### ***Family rights***

There have been changes in this sphere also, but in this case they involve questions of social lifestyle. Although the family has been the fundamental unit of society since the dawn of humanity, one must now take into consideration the fact that, alongside the family founded on marriage, there are other forms of union: single-parent families and cohabitation. In these cases, too, children have the right to protection.

Furthermore, these developments should not penalise the traditional family, which still deserves the protection of the State and society. Therefore no tax system adopted within the Union should discourage a spouse from remaining in the family home to raise the children. In the same spirit, even though new forms of conjugal living are becoming established, the principal characteristics of marriage should be reserved solely for this traditional institution.

### ***Freedom of thought, conscience and religion***

This right is very effectively enshrined in Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Nevertheless it warrants being supplemented in order to take into account the fact that the right enshrined in this article is generally considered from the angle of an individual right, even though it is externalised collectively and in public. In fact, freedom of thought, conscience and religion would be incomplete if it failed to take into consideration the collective dimension. By this, we mean that churches, religious associations and communities must be allowed to perform acts that are the concrete expression of this freedom, and these acts must be afforded legal recognition. Without this extra dimension, such freedom would to a large degree be meaningless.

Reference should be made in this regard to Joint Declaration no. 11, appended to the Treaty of Amsterdam.

### ***Right to education***

This right often gives rise to much debate within EU Member States.

Without wishing to undermine the principle of subsidiarity it is, however, desirable to clarify its scope and content in view of the comment on the previous article.

### ***Right to political asylum***

The protection of refugees is a highly topical issue in the European Union. At the Tampere European Council, the Member States that had signed the 1951 Geneva Convention reasserted their desire to allow individual protection for refugees. It is important to guarantee this right at Union level, since the Treaty of Amsterdam entrusted the Union with new powers to create an area of freedom, security and justice.

### ***Right of fair and proper access to health care***

Along with medical advances, sophisticated but also increasingly costly treatments are becoming widespread. In view of the increase in the European Union's ageing population and growing problems in balancing social security budgets, it is becoming urgent to provide fair measures of health care access for all.

### ***Right to protection against any form of discrimination on the grounds of health or genetic attributes***

There has been a plethora of scientific advances, which have been particularly spectacular in the field of genetics. However, such developments could lead to abuses for people who might be discovered to be prone to certain illnesses (with regard to employment contracts or the payment of insurance premiums, for example). In striving to combat a host of different forms of discrimination, we should not overlook the sort of discrimination based on health or genetic characteristics.

### ***Right of handicapped people***

In its concern to combat all forms of discrimination, the Treaty of Amsterdam has also included disability as an unacceptable criterion of discrimination. However, this provision is not enough in itself: positive measures must also be provided to assist disabled people.

### ***Right to rest and leisure***

The right to rest and leisure is one of the twentieth century's greatest achievements. This important social right is enshrined in the Universal Declaration of Human Rights, in particular.

Although the right to rest must take into account a number of criteria and be adapted to suit local requirements, it is nevertheless important to establish a common day for the convenience of families, the organisation of leisure, and cultural requirements. This day should obviously be Sunday, for centuries a day of rest common to all European countries. The choice of Sunday as a day of rest therefore forms part of Europe's cultural heritage.

### ***Right to social protection and to the satisfaction of basic material needs***

One of the European Union's greatest concerns is to combat social exclusion. The right to social protection and to the satisfaction of basic material needs (in terms of food,



clothing, accommodation and urgent medical care) must be included in any Charter of Fundamental Rights.

Every worker in the European Union must be able to benefit from this right, as well as any person who is unable or no longer able to work (spouses remaining at home or unemployed people) and any person legally resident in the territory (for example, anyone who has been given the right of asylum).

This right should include pregnant women who lack the necessary means of subsistence, who must be provided with the assistance required to allow them to cope with and take responsibility for their condition.

### ***Protection of the elderly***

In the same concern as that expressed above, any persons in the European Union who find themselves in a situation where they are at a severe disadvantage must be allowed to benefit from protection that provides them with a decent standard of living. This of course also applies to elderly people, whether they are workers in the Union or people legally resident there, examples of which have been given in the previous article.

### ***Rights of children in the labour market***

The concern to ensure the wellbeing of all people in the European Union who deserve protection should not neglect young people, a group that is sometimes at a disadvantage in the labour market.

For the definition of “child”, reference should be made to article one of the Convention on the Rights of the Child, adopted by the United Nations Organisation in 1989. This Convention and the European Social Charter of 1961 were the main sources of inspiration for this article.

**Brussels, 8 February 2000**