

# A Family Strategy for the European Union

*An encouragement to make  
the family an EU priority*



Commission of the Bishops' Conferences of the European Community

# A FAMILY STRATEGY FOR THE EUROPEAN UNION

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# A Family Strategy for the European Union

An encouragement to make the family an EU priority

GDP growth and productivity are readily accepted and, in general, legitimate policy objectives. It is therefore no coincidence that the European Union's Lisbon Strategy, which aims to make the EU the most competitive region in the world by 2010, has captured a lot of political attention at the EU level.

Although it contains a series of social and environmental goals, the strategy does not really address social relationships. Whilst it is true that the idea of strong human and social capital as a precondition for growth has been explored in the context of the Lisbon strategy, there is no significant mention of the family – which is usually at the core of a person's social relationships – in the associated documents. Family-related issues are barely considered.

According to a *Eurobarometer* study, most Europeans say that family life is what they value most in their lives.<sup>1</sup> To be accepted and incorporated in a family is considered by Europeans as essential to a person's sense of well-being. Another conclusion of this and comparable studies is that, at the existing level of wealth in most

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<sup>1</sup> *Eurobarometer* 44/3, Spring 1996

parts of Europe, happiness and satisfaction with life are no longer closely linked to ever higher income.

A high degree of satisfaction with family life does not necessarily mean, however, that parents are satisfied with the number of children they actually have. According to another recent study<sup>2</sup>, there is a consistent gap between the number of children Europeans consider ideal for themselves and the number of children they actually have.

EU policies should therefore focus on promoting more stable families and family situations that permit couples to have their desired number of children. This would have an impact on another urgent policy issue for Europe: having more children would be a direct response to the negative trend in European demography.

In 2002, the fertility rate in the EU remained at 1.47 children per woman, considerably below the rate needed to maintain the population at its current level (replacement rate) of 2.1 children per woman. It might be possible to deal with the financial burden that comes with declining birth rates by ever higher growth. An increase in immigration may also alleviate this decline. More productivity growth and more immigration, however, will not produce by themselves a reversal of the negative demographic trend in the EU. This will only be possible through having more children.

The importance of family is underlined by its positive impact on health.. “Social support is important for health and particularly crucial for good health at both ends of the life cycle. Social networks – consisting of family members, relatives, peers and friends – contribute to protect and enhance the health of individuals. ... The family remains the bedrock of care and support for both children and adults in all Member States and the role of family in the provision of care is perceived as important and positive.”<sup>3</sup> This is especially true for the elderly. If current trends continue, 46% of people aged

85 and older in the EU’s current Member States will live alone by 2020.

Last summer’s heatwave drew attention to discrepancies (and insufficiencies) in ad-hoc national policies across Europe in the face of such a crisis. It showed that the family itself, as a basic element of social integration and a basic ‘community of love’ and solidarity, has become weak, and needs to be supported. It gave renewed pertinence to the appeal of the Vatican Council’s Pastoral Constitution *Gaudium et Spes* (§ 52.2): “*The family is a kind of school of deeper humanity (...), in which the various generations come together and help one another grow wiser and harmonise personal rights with the other requirements of social life. [It] is the*

*foundation of society. All those, therefore, who exercise influence over communities and social groups should work efficiently for the welfare of marriage and the family. Public authority should regard it as a sacred duty to recognise, protect and promote their authentic nature, to shield public morality and to favour the prosperity of home life.*”

***To complement the existing Lisbon strategy the COMECE Secretariat proposes that European policy-makers develop an EU family strategy that supports Europeans in the area of their life they cherish most and that can make a substantial contribution to reversing the steep demographic decline in the EU population.***

The COMECE Secretariat therefore urges the European Union to respond creatively to the Pope John Paul II’s call in the Post-Synodal Apostolic Exhortation *Ecclesia in Europa* “*to work for the promotion of genuine and adequate family policies on the part of individual States and the European Union itself*” (§ 91).

This could be done by giving a new dynamic to the Lisbon Strategy; by complementing it with an EU family strategy in 2004, the UN Year of the Family. The overarching goal of the strategy would be that the enlarged EU becomes the most family-friendly region of the world by 2010. Such a strategy should involve the

<sup>2</sup> *Eurobarometer* 56/2, Autumn 2002

<sup>3</sup> European Commission, *The Social Situation in the European Union 2003* at 16.

Union, Member States and other actors and be in accordance with the principle of subsidiarity. While an agreement on goals would therefore be necessary, the different actors should retain the competence to decide on how to achieve them.

In accordance with the procedure used in elaborating the Lisbon Strategy, it would fall to the European Commission to propose headline goals for this strategy, on which the European Council would decide, taking account of the opinion of the European Parliament. In order to start a debate to this end, the COMECE Secretariat would like to launch some ideas for the possible headline goals of an EU Family Strategy.

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## A Family Strategy for the European Union

### Headline Goals

1. ***Improve the integration of elderly people within society – primarily through helping their families to help them***
  - 1.1. Introduce the open method of co-ordination for policies on old-age dependency, based on a review of existing support mechanisms and funding schemes, and with the aim of defining EU minimum standards for the treatment of old-age dependency.
  - 1.2. Review best practice regarding national allocations and systems for dealing with old-age dependency; ensure, by a fixed deadline, an exchange of national plans so as to enable everyone, even those without sufficient financial means and in cases of illness or senility, to have real access to decent living conditions and real choice between living at home or in specialised institutions.
  - 1.3. Establish in all member states a right to temporary part-time employment for citizens wishing to take care of their parents; ensure adequate social guarantees for these employees, such as the right to return to full employment and to compensatory 'salaries' in order to ensure a stable income and to maintain the previous level of social security contributions during the period of care. The additional cost of these measures could be balanced by corresponding savings in expenditure for institutional care.

## **2. Promote fairer children-friendly regulations and policies**

- 2.1. Include in the EU's next Joint Report on Social Inclusion a review of national best practice on the management of social housing with a view to ensuring the provision for big families at reasonable cost of homes of adequate size, in both city centres and residential areas, so that children's living conditions are not adversely affected by parents' decisions to have another baby in spite of material or other limitations;
- 2.2. Explore the possibility of including social housing in the European Commission's list of services of general interest and examine the possibility of rendering social housing projects eligible for support through European structural funds;
- 2.3. Request the European Commission to produce a study – in line with the European Council's goal in Barcelona in 2002 to reduce significantly by 2010 the number of people threatened by poverty and social exclusion – on member states' schemes to support families (concentrating on direct payments for each child and/or fiscal advantages), taking into account both the size and equity of support, with a view to avoiding a poverty trap for big families;
- 2.4. Review the European directive on parental leave (96/34 CE) and introduce, by a fixed deadline, national plans for defining the right of every child to care after the end of parental leave.
- 2.5. Strengthen efforts to attain the objective set by the Barcelona European Council "to provide child-care by 2010 to at least 90% of children between 3 years old and the mandatory school age and at least 30% of children under 3 years old"<sup>4</sup>.

<sup>4</sup> *Presidency Conclusions - Barcelona*, 15-16 March 2002, § 32

## **3. Promote fairer regulations and policies on marriage and parenting**

- 3.1. Review national best practice in the EU with a view to encouraging marriage as the starting point for each family; raise awareness of and promote measures to prevent divorce (e.g. by officially recognising and better financing marriage counsellors) in order to counter the growing perception of divorce as the automatic solution to couples' inevitable problems and crises. Just as the EU provides for the reunification of families that are separated by the EU's external borders – albeit to a far too limited extent –, so it should increase its efforts to stop the disintegration of families within its own borders.
- 3.2. Review the successful EU directive on parental leave with a view to extending reductions and flexibility in working time in order to allow parents to have a stake in their children's everyday life: e.g. 'generalisation' and extension of parental leave through the legal recognition of a parent's right to take care of his or her small children (including the possibility of introducing compensatory 'salaries' financed by corresponding savings in expenditure on institutional care, the provision for taking half-days to participate in school activities, the possibility of part-time employment throughout the year in order to take school holidays, the possibility to take part-time jobs allowing parents to be available in the morning or afternoon).
- 3.3. Develop, in accordance with the principle of subsidiarity, national plans to enhance the implementation of existing rules enabling the reconciliation of professional and family life (gender discrimination and unfair treatment with regard to career advancement and pay increases could be assessed; quality labels for supporting the reconciliation of professional and family life could be awarded; penalties and sanctions for infringements could be increased).

- 3.4. Promote awareness of the equal value of family activities and employment through European campaigns advocating the family, promoting equal responsibilities of father and mother for raising their family (real burden-sharing) and stressing the social responsibility of companies. The Pope has expressed the “hope that the domestic work done by mothers will be considered, like that of fathers, as a contribution to the common good, even through forms of financial retribution.”<sup>5</sup>

#### **4. *Promote closer links between generations***

- 4.1. Review EU best practice on the provision of joint structures for elderly people and young children (promoting partnerships between kindergartens and old people’s homes, supporting ‘good grandparents’ associations, providing legal support for the involvement of elderly people on a voluntary basis in school teaching, offering social housing that enables several generations to live under the same roof or closely together etc.);
- 4.2. Review grandparents’ rights, under Member States’ legislation, in cases of the divorce or separation of the parents, with a view to promoting practices that best take account of the need to maintain links between grandparents and grandchildren, in spite of tensions concerning the parents, and to provide, when possible, a more constructive vision of marriage and familial stability.
- 4.3. Investigate the possibility of providing for the progressive suspension of professional activity on a voluntary basis for grandparents who are willing to take care of young children (full-time or part-time ‘grandparental leave’), recognising the

growing role of grandparents in nuclear families where both parents work, including the possibility of introducing partial compensatory ‘salaries’ financed by corresponding savings in childcare institutions.

#### **5. *Promote public support for families in particular need***

- 5.1. Review EU best practice regarding the integration of disabled children in socialisation structures (schools, children’s holiday camps and organisations), including adapting existing buildings to their specific needs;
- 5.2. Promote public support for extra costs generated by handicap, including care and monitoring at home;
- 5.3. Promote the equal dignity of all children and human beings, whatever their respective physical and mental abilities, through national campaigns;
- 5.4. Increase the voice of families’ and disabled children’s associations in political decision-making in accordance with the conclusions of the EU Council of Ministers for Social Affairs (cf. Council Conclusions 15206/03) and grant them a right to be consulted in all European and national decision-making processes involving family-related issues.
- 5.5. Simplify the bureaucratic and time-consuming rules governing adoption, in particular by facilitating access to those who lack financial means or administrative skills, in order to provide as early as possible a family for children who do not have one
- 5.6. Devote more attention in general to situations of family suffering, such as families living in poverty, families where there is abuse and ill-treatment, or families living in areas with high rates of crime.

<sup>5</sup> John Paul II, Post-Synodal Apostolic Exhortation “Ecclesia in Europa”, § 43.

## 6. *Promote family associations and a better representation of families in public life*

- 6.1. Review EU best practice regarding the representation of families within the different fora of public life (including a reflection on appropriate provisions for specific kinds of families, such as those in special needs mentioned above).
- 6.2. Promote new mechanisms and instruments in the EU institutions to promote a more coherent and inclusive family policy.
- 6.3. Promote the exchange of views at EU level on institutional measures to take account of the family at the national, regional and local level.
- 6.4. Explore possible measures at EU level to promote experience-sharing and institutional links between national stakeholders (parents' associations, parents of pupils and students, parents of disabled children, foster parents, adoptive parents, and so on) in order to enhance and develop their structures.
- 6.5. Complement the Resolution of the EU Council of Ministers on Social and Human Capital (2-3 June 2003), which refers to the contribution of families and family associations at the micro-level to the formation of social and human values, with a resolution concentrating specifically on this issue.

## A Family Strategy for the European Union

### Proposals for debate

These headline-goals and initiatives are proposals which can undoubtedly be improved. They are material for discussion and debate. In suggesting them, the COMECE Secretariat hopes that political actors and institutions will perceive the task of strengthening the family, and of giving fresh support to marriage as the ideal starting point for each family, as one that deserves close attention. Promoting the family will ultimately make EU citizens happier, produce greater social cohesion, have a positive effect on public health and may in the process contribute to reversing the decline in the EU birth rate.

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Family policy should remain a competence of the Member States. However, the urgent need for progress justifies an intensification in the exchange of good practice and a certain number of common initiatives, including legislative measures, at the EU level.

Many policies implemented at the European level are not neutral with regard to the family and can thus have a positive or a negative impact on families and marriage. We therefore call on the European institutions to engage in a joint effort to complement the Lisbon strategy by a European family strategy.



## Annex:

# Family Policy and the European Union<sup>6</sup>

*“Is there such a thing as a European family? Is there such a thing as a European family policy? There is no doubt that there is such a thing as a European family, even if there are noticeable differences among our countries; while there is no such thing as a European family policy, even though it is possible to detect some resemblances among our various countries. In fact there is no Community competence in the area of family policy, and it is for the various Member States to implement or decline to implement policies in this field.*

*“This might be considered the end of the matter, but the issue is more complex. In fact, policies pursued at Community level in the area of health, education, employment and the fight against poverty and exclusion and policies concerning equal conditions for men and women all have an indirect impact on families and their children.”*

European Parliament Report on the  
protection of families and children (1999)

This quotation from an own-initiative report of the European Parliament on family matters illustrates the difficulties of family-policy within the European Union: according to the Treaties there is no such thing as “European family policy”. Taking into account the national cultural and historical differences the Member States have reserved family-policy as their exclusive domain. The European Union

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<sup>6</sup> The information contained in this annex has been collected by the COMECE Secretariat from a variety of sources, most of which are available on the Internet. It does not represent the opinion of COMECE.

Institutions can only propose and execute supporting and complementary actions.

On the other hand families are affected by community regulations in many areas: social protection, working time, gender equality, competition, media-policy, formation and vocational training, health, development policy etc. It is not always certain if this is taken into account in European decision-making processes. This annex provides information on the following areas:

- The sharing of competences amongst the European Institutions in family-policy matters according to the Treaties (Part I)
- An overview of EU legislation that has an effect on the life of families (Part II) and on existing community policy (Part III)
- A view of future perspectives – according to the Draft Treaty establishing a Constitution for Europe (Part IV) and activities intended by the UN and the EU for the celebration of the Tenth Anniversary of the International Year of the Family (1994).

## I. “Family” in the EU Treaties

The enumeration of Community competences in article 3,1 of the Treaty establishing the European Communities (TEC) does not mention the notion “family”. However a number of Community competences do have influence on family life and family ties:

*“... 1. For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein:*

*(c) an internal market characterised by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital;*

*(d) measures concerning the entry and movement of persons as provided for in Title IV;*

*(g) a system ensuring that competition in the internal market is not distorted;*

*(h) the approximation of the laws of Member States to the extent required for the functioning of the common market;*

*(j) a policy in the social sphere comprising a European Social Fund;*

*(k) the strengthening of economic and social cohesion;*

*(p) a contribution to the attainment of a high level of health protection;*

*(q) a contribution to education and training of quality and to the flowering of the cultures of the Member States;*

*(r) a policy in the sphere of development co-operation;*

Part III will present examples of Community legislation in the above mentioned areas.

Since the Community is not a state nor is provided with the characteristic features of a state it is limited to assigned competences: it has no “own competence”, i.e. it is not able to lay down its own activities and authorities but obtains them from the Member States (Article 4 TEC). The institutions of the European Communities therefore only can develop activities within the framework of their clearly outlined competences. Since the Community has no competence over family policy the Community is not entitled to be active in the area of family policy.

Despite this distinction of competences there is a certain tendency by

the Community to extend its competences and develop activities based on Article 5 II:

*“... In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.”...*

Applied to the area of family policy this means the Community may be active in areas of shared competences if the aim of such an action cannot be fulfilled by measures of a single Member State –because the extent of the measure exceeds a Member State’s capacities, or because the objective of the measure affects the Community as a whole and therefore requires an involvement of the Community institutions. As provided in the Protocol on Subsidiarity, however, the Community’s involvement in this area is only permitted if its action has a substantial advantage over the action of a single Member State.

## II. Family-related legislation of the European Union

There is no such thing as “European family law”. The legal relationships identified as “family ties” and the norms governing family life in both physiological and pathological phases are a matter left to the competence of Member States. Nevertheless, family ties and family life become a subject of European interest each time they come into play in a sphere of social life which is covered by EU legislation. When this occurs, they become so important as to alter the existing norms, either by widening or restricting their application, or by creating special provisions adapting the general framework to the specificity of family life.

In line with the subsidiarity principle, only some aspects of family life are regulated, or otherwise considered relevant by EU legislation. The scope of this paper is to illustrate which these aspects are and in which fields further developments can be expected in the near future.

### II.1 Family in Employment and Social Legislation

This is the field where EU legislation having an impact on family has been most abundant. With reference to employment legislation, the main orientation of the EU has been to combine pursuing gender equality with reconciling professional and family life. In order to promote integration and social cohesion, Member States are called upon to create appropriate conditions to give women and men equal opportunities to access to and remain in the labour market. To this aim, child care services and assistance to other dependants must be provided and family and professional burden-sharing must be encouraged. Equal treatment requires that any unfavourable treatment on account of pregnancy or motherhood is qualified as discrimination on the ground of sex. Health and safety at work must be particularly granted to pregnant workers, to workers who have recently given birth or are breastfeeding, provided this protection does not impair women on the labour market. As for parental leave, the EU considers it as an individual and non transferable right for male and female workers. Member States should therefore adopt necessary measures to protect the latter from redundancy due to exercising this right and ensure they can return to the same or equivalent post at the end of such period. The right to equal treatment (i.e. the absence of all discrimination on the ground of sex, by reference in particular to

marital or family status) must be granted also to self-employed workers and to their spouses, where the latter habitually contribute to the former's activity. Member States are called upon not to hamper the constitution of companies between spouses.

As to social legislation, the EU has made efforts to co-ordinate the various national social security schemes in order to apply them to workers and their family members moving within the Community. It has also made possible for third-country nationals, legally resident in the Community, to benefit from this co-ordination. Significantly, this body of rules does not define family members, leaving this to national legislation. However, it is currently under revision. The future regulation will not only simplify it, but it will also broaden the definition of family to include forms of marriage allowed under law in different Member States. A shift from the traditional notion of family based on marriage is proposed in the actual procedure towards a new regulation for EU Institutions staff members. In the current state of play, recognised partnerships or confirmed stable partnerships are supposed to enjoy the same social benefits as those granted to married staff members. Taking into account the changes in the labour market and in the family structures, the EU has also recommended Member States to fight against social exclusion. The fundamental right to sufficient resources to live in dignity must therefore be accorded both to individuals and to family groups.

The following is a list of existing and draft legislation, given in chronological order, in the fields of employment and social policy:

- **Council Decision 2003/578/EC of 22 July 2003 on guidelines for the employment policies of the Member States, *OJ L 197, 05/08/2003, p. 0013 – 0021***
- **Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality, *OJ L 124, 20/05/2003, p. 1-3***
- **Procedure CNS/2002/0100 (COM (2002)0213 – A-5-0069/2003) for a Council Regulation amending Staff Regulations of Officials and the Conditions of Employment of other**

**servants of the European Communities**

- **Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, *OJ L 269, 05/10/2002, p. 15-20***
- **Decision 1145/2002/EC of the European Parliament and of the Council of 10 June 2002 on Community incentive measures in the field of employment, *OJ L 170, 29/06/2002, p. 1-6***
- **Regulation (EC) No 1386/2001 of the European Parliament and of the Council of 5 June 2001 amending Council Regulations (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, *Official Journal L 187, 10/07/2001 p. 0001 – 0003***
- **Council Decision 2001/51/EC of 20 December 2000 establishing a Programme relating to the Community framework strategy on gender equality (2001-2005), *OJ L 017, 19/01/2001 p. 0022 – 0029***
- **Procedure COD/1998/0360 (COM (1998)0779 - A-5-0226/2003 - COM(2003)0596) for a Council Regulation on coordination of social security systems to promote the free movement of persons (amending Reg. 1408/71)**
- **Council Regulation (EC) No 1290/97 of 27 June 1997 amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71, *OJ L 176, 04/07/1997, p. 0001 – 0016***

- **Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC, OJL 145, 19/06/1996, p. 0004 – 0009; Council Directive 97/75/EC of 15 December 1997 amending and extending to UK Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC**
- **Council Regulation (EC) No 3095/95 of 22 December 1995 amending Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, Regulation (EEC) No 574/72 fixing the procedure for implementing Regulation (EEC) No 1408/71, Regulation (EEC) No 1247/92 amending Regulation (EEC) No 1408/71 and Regulation (EEC) No 1945/93 amending Regulation (EEC) No 1247/92, OJL 335, 30/12/1995, p. 0001 - 0009**
- **Council Recommendation 92/441/EEC of 24 June 1992 on common criteria concerning sufficient resources and social assistance in social protection systems, OJL 245, 26/08/1992, p. 46-48**
- **Council Directive 92/85/EC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding, OJL 348, 28/11/1992, p. 1-8**
- **Council Recommendation 92/241/EEC of 31 March 1992 on child care, OJL 123, 08/05/1992, p. 16-18**
- **Council Directive 86/613/EEC of 11 December 1986 on the application of the principle of equal treatment between men and women engaged in activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy or motherhood, OJL 359, 19/12/1986, p. 56-58**

## II.2. Judicial Co-operation among Member States on Family Matters

In the general scope of creating a common judicial area, special provisions have been adopted for judicial procedures on family issues with a transnational character (divorce, separation, annulment of the marriage, parental responsibility). The EU and Member States today share competence in this sector, governed by the principles of mutual recognition of judicial decisions and of the child's best interest. The forthcoming legislation will mostly deal with child abduction, as it occurs in situations of marital crisis. The fundamental right of the child to maintain, during or after a judicial procedure, regular contacts with his/her family members, enshrined in article 24 of the Charter of Fundamental Rights, is also implemented.

The following are the chief legal instruments:

- **Procedure CNS 2003/0127 (COM (2003) 0348 - A5-0319/2003) Convention on jurisdiction, applicable law, recognition, enforcement and cooperation on respect of parental responsibility and measures for the protection of the children (the Hague Convention), aiming at exceptionally authorising MS to accede or ratify the Hague Convention in the interest of the Community, OJL 048, 21/02/03, p. 3-13.**
- **Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000, OJL 338, 23/12/2003 p. 0001 – 0029**
- **Council Regulation (EC) No 1347/2000 of 29 May 2000 on jurisdiction and the recognition and enforcement of judgments in matrimonial matters and in matters of parental responsibility for children of both spouses, OJ L 160, 30/06/2000, p. 19-36**
- **Proposal COM(2002)0520 final for a Council Decision on the signing by the European Community of the Council of Europe Convention on contact concerning children, OJ C 020 E, 28/01/2003, p. 369-369**

### II.3. Immigration and Asylum

Existing (or forthcoming) legislation in this sector is notable for two reasons: a) because it extends its favourable provisions to the family members of the beneficiaries; b) because it defines who these family members are. Therefore, family members are entitled to receive the statute of refugees or beneficiaries of subsidiary protection together with the applicant; similarly, family members may be granted a short term residence permit when accompanying a person who has been victim of illegal immigration or traffic in human beings. Third-country nationals who are members of the family of an EU citizen can legally reside in the territory of a Member State on a long-term basis and thus enjoy a specific status. Following the obligation to protect the family and respect family life, stemming from article 8 ECHR and from the Charter of Fundamental Rights, the EU has established the right to family reunification for third-country nationals who are lawfully residing in the territory of a Member State. Family reunification, in fact, facilitates social integration and contributes to socio-cultural stability. In addition, in order to preserve the family unit, asylum applications lodged by members of the same family shall be processed together by a single Member State. Derogations from the responsibility criteria should be allowed so as to bring family members together when humanitarian reasons exist. Family ties are also relevant to determine which Member State is competent for examining asylum applications. In receiving asylum seekers, Member States may consider particular family reasons, like pregnancy or single parenthood, as situations of special need. As for trafficking in human beings, children should be considered particularly vulnerable victims of it and appropriate assistance should be given to their families.

As to the definition of family members, it has been generally broadened. The directive on family reunification defines the nuclear family as made up of the spouse and children (minors), while it is for Member States to decide if they wish to authorise family reunification for relatives in the ascending line, adult unmarried children, unmarried or registered partners, with limits for polygamous households. The other provisions, though not making such distinction, have also considered family ties as going beyond the legal links.

The following legal instruments illustrate this development:

- Procedure CNS 2001/0207 (COM (2001)0510 - A5-0333/

2002) for a new Council directive on minimum standards for the qualification and status of third country nationals and stateless persons as refugees or as persons who otherwise need international protection

- Procedure CNS 2002/0043 (COM (2002)0071 - A5-0397/2002) for a new Council directive on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who cooperate with the competent authorities
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, *OJ L 251, 03/10/2003, p. 12-18*
- Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, *OJ L 050, 25/02/2003, p. 1-10*
- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for reception of asylum seekers, *OJ L 031, 06/02/2003, p. 18-25*
- Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings, *OJ L 203, 01/08/2002, p. 1-52*
- Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, *OJ L 016, 23/01/2004 p. 0044 - 0053*
- Council Decision 2000/596/EC of 28 September 2000 establishing a European Refugee Fund, *OJ L 252, 06/10/2000, p. 12-18 (relates to family indirectly)*

### II.4. Freedom of Movement

The aim of the EU's current initiative in this field is to provide a single legal basis to the right to free movement and residence for all

EU citizens and to replace the existing legislation related only to certain categories of beneficiaries (workers, students, service providers etc.). It actually considers free movement and residence in the host Member State as a proper individual right that extends also to the citizen's family, according to the jurisprudence of the European Court of Justice and to the Charter of Fundamental Rights. The notion of "family member" is also broadened.

- Procedure COD 2001/0111 (COM (2001) 0257 final - A5-0009/2003 - COM (2003) 0199) for a new **Directive of the European Parliament and of the Council on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States**

## II.5. Development

In the context of Development Policy, the family is particularly affected by a new regulation establishing the legal basis for the EU's financing, technical assistance, supply, training and evaluation of projects in the field of reproductive and sexual health in developing countries. On one hand, it forbids incentives to sterilisation, abortion and improper experimentation of contraceptive methods; on the other it promotes individual freedom of choice, the access to sexual and reproductive health services, to education, information and an adequate sanitary assistance, as well as methods of contraception and protection from sexually transmitted diseases.

- **Regulation (EC) No 1567/2003 of the European Parliament and of the Council of 15 July 2003 on aid for policies and actions on reproductive and sexual health and rights in developing countries, OJ L 224, 06/09/2003, p. 1-6**

## II.6. Television Broadcasting

With the "Television Without Frontiers" directive of 1997, the EU aims to co-ordinate the national provisions regulating television broadcasting in order to bring their contents into line and ensure the free movement of such services. This directive concerns the family insofar as it refers to the Commission's Green Paper on the protection of minors and human dignity in television and information services.

It promotes the role of parents in controlling the programmes their children watch, as well as encouraging family viewing policies and other educational and informative measures.

- **Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities, OJ L 202, 30/07/1997 P. 0060 – 0070.**

### III. European Family Policy

#### III.1. The European Observatory on the Social Situation, Demography and Family

The European Observatory on the Social Situation, Demography and Family was established by the European Commission in 1989 on the basis of the conclusions of the Council of Ministers responsible for Family Affairs meeting on 29 September 1989, as well as on the basis of Communication COM (89)363final on Family Policies, adopted by the Commission. It works in co-operation with the DG Employment and Social Affairs of the European Commission.

The Observatory is a multi-disciplinary network of independent experts established upon the request of the European Commission. As its main tasks, the Observatory:

- monitors political developments in Europe which have an impact on the social situation, demography and family;
- analyses political activities and the impact of family policies;
- monitors demographic, socio-economic and political changes which have an impact on families;
- stimulates academic debate on social, demographic and family issues as well as on related policies;
- organises annual seminars of the Observatory experts and invited speakers for a specialised audience. The Annual Seminar 2003 was dedicated to *health*. In 2002 it focused on *immigration and family*. The Milan Seminar in 2001 analysed *family forms and the young generation in Europe*. In 2000, *fertility* was on the agenda of the Seminar held in Seville. Reports are available on request on the Observatory's website or at its secretariat in Vienna;
- organises two closed meetings per year for the Observatory members.

The European Observatory has a National Expert from each Member State. This group of experts monitors and reports on developments

regarding the social situation, demography and family in their countries, in the light of the Observatory's annual research focus. Their reports are published on the Observatory's website and are good examples of the similarity as well as the differences in the Member States' developments in family policy.

Since 1998 the Observatory's work is co-ordinated by the Austrian Institute for Family Studies (ÖIF) in Vienna. The ÖIF's contract with the European Commission will end in 2004. The Commission has decided to stop the work of the Observatory by then. Family Policy will become part of the Union's Social Policy and will be followed and reported in the Union's annual social report.

The Observatory's work is documented on its website. Every other month, the Observatory publishes *sdf-puzzle*, an electronic newsletter offering scientific contributions on selected key topics. Information on conferences, other events and topical family issues is circulated via the biweekly newsletter *puzzle*.

[www.oif.ac.at](http://www.oif.ac.at)

[www.europa.eu.int/comm/employment\\_social/eoss](http://www.europa.eu.int/comm/employment_social/eoss)

#### III.2. The "Hermange Report" of the European Parliament (A4-0004/1999)

In January 1999 for the first time an own-initiative report on the protection of families and children (Rapporteur: Mrs Marie-Thérèse Hermange) was adopted by the plenary of the European Parliament – despite the notion that there is no such thing as a European definition of "family" and therefore no common basis on which to propose a European family policy.

After a demographic, sociological and technological assessment (and an overall view on the pluriformity of national family policies – different models of family allowances, parental leave and child care) the report outlined a comprehensive European family policy – with the protection of the child at its core.

According to the report such a family policy should be based on the following four principles:

- *respecting freedom of choice for parents and taking account of the diversity of family models,*



- *placing children at the heart of the European debate,*
- *going beyond the socio-economic approach geared solely to policies on benefits,*
- *taking account of respect for equal opportunities for men and women*

In its conclusions the report proposed the following steps and actions:

- On the institutional level, the installation of a unit within the European Commission devoted to family affairs and child protection; the installation of a Council of Ministers of Family Affairs; the strengthening of the European Observatory
- On the legislative level, the introduction of a family impact statement for all Community acts in areas as diverse as social policy, economic policy, environmental policy, agricultural policy and transport policy and the adoption of guidelines for actions in favour of children
- Finally the introduction of an active co-ordination between public authorities, non-governmental institutions and associations in actions aimed at reconciling family life and professional life, pre-school and school education, the structuring of urban areas, co-operation between judicial services, the police and social services to support family life and the protection of children

All the other concrete steps the report proposed aimed at a policy of protection of the child – from birth to adulthood, against violence, abuse and sexual harassment – and the support of the parents in fulfilling their task as parents (training courses for parenthood, parental leave, reconciliation of work, social life and family life).

Considering the status of the report and the lack of Community competences in this area the Commission could not take up the report's conclusions. The report contributed, however, to a discussion about the necessity of a Community family policy and the inclusion of family matters in different areas of Community policy.

### III.3. The “Bastos Report” of the European Parliament (A5-0092/2004)

On 9 March 2004, the European Parliament adopted another own-initiative report drafted by Regina Bastos MEP on “Reconciling professional, family and private life”. The report, based on a survey of the situation regarding family policy in the different Member States, sets out a number of ways in which progress could be made toward the targets set at the Barcelona summit in 2002, namely the elimination of obstacles to the participation of women in the labour market and the provision, by 2010, of childcare facilities for 90 per cent of children between 3 years old and the mandatory school age, and for 33 per cent of younger children.

Among other suggestions, the report urges the Commission to draw up a framework directive on reconciling professional, family and private lives and to organise an annual conference on the issue. They propose additional awareness raising measures by both the Commission and the Member States, and call for Member States to avoid taxation measures which penalise families and larger households. They add that family policy should make it possible for parents to spend more time with their children, and that better contact between parents and children would have a positive impact on family formation and family stability. To achieve these objectives, the report says there must be greater public investment in providing affordable, high-quality childcare. Member States are also urged to facilitate access to paid parental leave and other forms of long-term leave, including career breaks, as well as special short-term leave (e.g. for breastfeeding or for the illness of a family member). The report also stresses the importance of flexible working hours and distance working for both male and female employees.

Care for children is the most prominent aspect of this resolution but not the only one. Europe's population is ageing, with 17% of the population of the EU over 65 years old, and this percentage is growing fast, so steps have to be taken now. The report urges the Member States to provide the elderly with high quality care and domestic help, and to ensure adequate training for staff working in this area.

[Source: European Parliament Press Service]

#### IV. Family and the Draft Treaty establishing a Constitution for Europe

On 18 July 2003 the draft of the Treaty establishing a Constitution for Europe was adopted by the Convention on the Future of Europe. It contains the Charter of Fundamental Rights of the Union which was adopted by the European Council in Nice in December 2000. The draft contains several direct or indirect references to “family”. **Part I, Article 3** of the draft names, under the heading “**The Union’s objectives**”, elements that are directly connected with family matters:

*“It [the Union] shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of children’s rights.”*

According to Article I-5 II the Union pursues these goals in co-operation with the Member States, in full respect of their constitutional structure, their national identity and culture, as well as the principle of subsidiarity. In return, the Member States refrain from any action that could impede the Union in reaching the goals named under **Article I-3**:

*“Following the principle of loyal cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Constitution. The Member States shall facilitate the achievement of the Union’s tasks and refrain from any measure which could jeopardise the attainment of the objectives set out in the Constitution.”*

All socio-political measures and activities in connection with “family” come – according to **Article I-13 II 6** – under the shared competences of the Union and the Member States:

*“Shared competence applies in the following principal areas: ... – social policy, for aspects defined in Part III, ...”*

Such aspects are described in Articles III-103 ff.: the improvement of life and work conditions, proper social protection and equal

opportunities for men and women, the combating of social exclusion. All those areas are already mentioned in Article 136 ff. TEC.

All those measures aim only at “improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws of the Member States”. With respect to the rules in each of the Member States, the Union may establish minimum requirements by European laws or framework laws which will gradually be implemented by the Member States.

In concrete terms this means no harmonisation of social policy concerning the family for the foreseeable future or, at most, the elaboration and implementation of minimum requirements.

Two other references on the family are found in **Article III-168 IIa** – the Union develops a common immigration policy and regulates family reunification by European laws and framework laws – and in **Article III-170 III** – the Council of Ministers, acting unanimously, may lay down, on a proposal from the Commission a European decision determining those aspects of family law with cross-border implications.

In contrast with the other parts of the draft, **Part II – the Charter of Fundamental Rights** – mentions the family directly on several occasions:

**Article II-7**: *“Everyone has the right to respect for his or her private and family life, home and communications.”*

**Article II-9**: *“The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.”*

**Article II-14, 3**: *“The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.”*

**Article II-24, 3**: *“Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.”*

**Article II-33:** *“The family shall enjoy legal, economic and social protection. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.”*

**Article II-34, 1:** *“The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices.”*

The notions of “family” and “marriage” are not defined by the draft constitution. Article II-9 only mentions the right to marry and the right to found a family in accordance with the national laws of the Member States (who also define their understanding of “family” and “marriage”). There is no European agreement in this matter – “no such thing as a European family”.

In summary, family policy will rest mainly in the competence of the Member States. The Union will only take initiative if they have a certain European “added value” (e.g. transnational relevance, issues coinciding with areas of European Union competence). Such initiatives will not lead to the harmonisation of family policy on European level. This will not be changed fundamentally by the draft Treaty – at least in its present form.

## V. 2004 – Ten years on from the International Year of the Family in 1994

In December 1997 the General Assembly of the United Nations proposed to organise in 2004 a follow-up to the 1994 International Year of the Family (IYF). The objectives of this tenth anniversary of the IYF should be to:

- Increase awareness of family issues among Governments as well as in the private sector;
- Strengthen the capacity of national institutions to formulate, implement and monitor policies in respect of families;
- Stimulate efforts to respond to problems affecting, and affected by, the situation of families;
- Undertake at all levels reviews and assessments of the situation and needs of families, identifying specific issues and problems;
- Enhance the effectiveness of local, national and regional efforts to carry out specific programmes concerning families, generate new activities and strengthen existing ones;
- Improve collaboration among national and international non-governmental organisations in support of families.

The Tenth Anniversary of the International Year of the Family 2004 was launched in December 2003. The whole programme will culminate in the holding of a plenary session of the Assembly on the topic of families. It will be devoted to a reaffirmation of commitments made and the identification of further actions, including encouraging the incorporation of effective family policies and programmes into national development strategies; and encouraging regional institutes to promote and undertake research and development of policies related to family issues.

The main focus of activities will stay on national and regional level. Under the Irish Presidency of the European Union in the first half of 2004, the European Union will organise a conference on “Families, change and social policy” – on 13-14 May 2004 in Dublin.