

DRAFT CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

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(OR. FR)

CHARTE 4333/00

CONVENT 36

PRAESIDIUM NOTE

Subject: Draft Charter of Fundamental Rights of the European Union
– Draft Articles 1 to 30 (doc. CHARTE 4284/00 CONVENT 28)
= Compromise amendments proposed by the Praesidium

Article 1

Make paragraph 2 into a new Article 1a.

Based on amendments 5, 14, 15, 16.

Article 3

New drafting:

1. Everyone has the right to respect for his physical, genetic and mental integrity.
2. In the fields of medicine and biology, the following principles must be respected in particular:
 - prohibition of eugenic practices, in particular those concerned with the selection and instrumentalisation of persons;
 - respect for the informed consent of the patient;
 - prohibition of making the human body and its parts a source of financial gain;
 - prohibition of the reproductive cloning of human beings.

Based on amendments 49, 52, 54, 56, 59, 64, 67.

Article 4

The Praesidium suggests moving the second paragraph to the article on the right of asylum and replacing "would be in danger of being" by "could be".

Article 5

New drafting of paragraph 2

2. No one shall be required to perform forced or compulsory labour. The term "forced or compulsory labour" shall not include services required by law of citizens for civic reasons in case of an emergency or disaster and military service or the work ordinarily required of persons imprisoned.

Based on amendments 96, 100, 101, 102,104

Add a paragraph 3

3. Trafficking in human beings is prohibited.

Based on amendment 90

Article 8

Paragraph 1 to read as follows:

Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Everyone shall have the possibility of being advised, defended and represented by a lawyer.

In paragraph 2, replace "is indispensable" by "is necessary".

Based on amendments 148, 149, 158, 162

Article 10

The title to read as follows

"Principle of legality and proportionality of offences and penalties"

The end of paragraph 2 to read as follows

"was criminal according to international law"

Add a new paragraph 3

The severity of penalties shall be proportional to the gravity of the offence.

Based on amendments 177, 179, 185, 187, 188

Article 11

The title to read as follows

Right not to be tried or punished twice in criminal proceedings for the same offence.

Based on amendment 199

Article 12

The title to read as follows

Respect for private and family life

The article to read as follows

Everyone has the right to respect for his privacy, his family life, his honour and his reputation, his home and the confidentiality of his correspondence and communications.

Based on amendments 207, 221

Article 13

The title to read as follows

Right to marry and to found a family

Delete paragraph 1

The new paragraph 1 to read as follows

The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of this right.

Based on amendment 243

Delete the present paragraph 2, which will be inserted in the social rights.

Based on l'amendment 251

Article 14

The article to read as follows

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

Based on amendments 252, 254, 255, 256, 257, 258, 259, 263, 264, 265, 270, 271, 272

Article 15

Add a paragraph 2

The freedom of the press and of information shall be guaranteed with due respect for transparency and pluralism.

Based on amendments 279, 280, 281, 282, 284, 290

Article 16

Paragraph 2 to read as follows

The freedom to found educational establishments shall be guaranteed, with due respect for democratic principles, in accordance with the national laws governing the exercise of this right.

Based on amendments 312, 318, 320

Article 17

New drafting

Everyone has the right to freedom of peaceful assembly and to freedom of association with others, in particular in political, trade union and civic matters.

Based on amendments 325, 326, 329, 330, 339

Article 19

The article to read as follows

Everyone has the right to determine whether data of a personal nature concerning himself may be collected, how they may be used and whether they may be disclosed.

Based on amendments 359, 365, 367, 369, 372

Article 20

The article to read as follows

Every person has the right to own, use, dispose of and bequeath lawfully acquired possessions. No one may be deprived of his possessions, except in the public interest in the cases and subject to the conditions provided for by law and subject to fair compensation.

Based on amendments 380, 381, 382, 387, 389, 393, 400

Article 21

To read as follows

The right of asylum shall be guaranteed, in accordance with the Treaty establishing the European Community and with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties.

Based on amendments 404, 404a (Mr Melograni), 410, 414, 415, 416, 428, 429

Article 21a

New article taking over part of Article 4 and to read as follows

1. Collective expulsions are prohibited.
2. No one may be expelled or extradited to a State where he could be subjected to the death penalty, torture or other inhuman treatment.

Based on amendments 82, 409, 412, 414, 432, 433

Article 22

The article to read as follows

1. Any discrimination based on aspects such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, association with a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those treaties, any discrimination on grounds of nationality shall be prohibited.
3. The Union shall seek to eliminate inequalities and to promote equal status for men and women. In particular equality between the sexes shall be ensured when setting pay and other working conditions.

Based on amendments 437, 439, 440, 442, 453, 454

Article 23

The article to read as follows

1. Children shall have the right to protection and to the care necessary for their well-being. They may express their opinions freely on matters which concern them and these opinions shall be taken into consideration in a manner appropriate to their age and maturity.
2. In all decisions relating to children, whether taken by public or private welfare bodies, the first concern shall be the child's best interests.

Based on amendments 474, 476, 478, 479, 484, 485, 486, 487, 489, 490, 491, 493

Article 24

After "Every citizen" add "of the Union".

Based on amendments 510, 511, 514, 515

Article 25

Reverse the order of paragraphs 1 and 2

In paragraph 2, after "candidate" add "for the European Parliament".

Based on amendment 532

Article 27

Change the title to "Right to good administration"

Paragraph 3 to begin as follows

"Every person has the right to address..."

Based on amendment 555 and on the amendment of Mr Dehaene

Article 28

Add "of the Union" after "citizen"

Based on amendments 565 et 569

Article 29

After "citizen" add "of the Union"

Based on amendment 581

Article 29a

New article

Diplomatic and consular protection

Every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that Member State.

Based on amendment 545 and reproducing the first sentence of Article 20 of the EC Treaty
