

DRAFT CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

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(OR. fr)**

CHARTE 4422/00

CONVENT 45

PRESIDENCY NOTE

Subject : Draft Charter of Fundamental Rights of the European Union
– Complete text of the Charter proposed by the Praesidium

The Members of the Convention will find below the complete text of the Charter proposed by the Praesidium in the light of discussions in the Convention. Members may forward their general comments on this draft, by 1 September 2000, to the following address:

Jean-Paul.Jacque@consilium.eu.int,

indicating:

- "for the attention of Mr Jansson" (for the representatives of the national Parliaments)
- "for the attention of Mr Mendez de Vigo" (for the members of the European Parliament delegation)
- "for the attention of Mr Braibant" (for the personal representatives).

The Secretariat will forward these comments to the relevant addressee.

PREAMBLE

1. The peoples of Europe have established an ever closer union between them and are resolved to share a peaceful future based on common values.
2. The Union is founded on the indivisible, universal principles of the dignity of men and women, freedom, equality and solidarity; it is based on the principle of democracy and the rule of law.
3. The Union contributes to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels; it ensures balanced and sustainable development through the free movement of persons, goods, capital and services.
4. In adopting this Charter the Union intends to enhance the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible.
5. This Charter reaffirms, with due regard for the powers and tasks of the Community and the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions common to the Member States, the Treaty on European Union, the Community Treaties, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Community and by the Council of Europe and the case law of the Court of Justice of the European Communities and of the European Court of Human Rights.
6. Enjoyment of these rights entails responsibilities and duties with regard to other persons, to the human community and to future generations.
7. Each person is therefore guaranteed the rights and freedoms set out hereafter.

CHAPTER I. DIGNITY

Article 1. Dignity of the person

The dignity of the person must be respected and protected.

Article 2. Right to life

1. Everyone has the right to life.
2. No one shall be condemned to the death penalty, or executed.

Article 3. Right to the integrity of the person

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

Article 4. Prohibition of torture and inhuman or degrading treatment and punishment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 5. Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. Trafficking in human beings is prohibited.

CHAPTER II. FREEDOMS

Article 6. Right to liberty and security

Everyone has the right to liberty and security of person.

Article 7. Respect for private and family life

Everyone has the right to respect for his private and family life, his home and the confidentiality of his communications.

Article 8. Protection of personal data

Everyone has the right to the protection of personal data concerning him. Such data must be processed fairly for specified purposes on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him, and the right to have it rectified. Compliance with these rules shall be subject to control by an independent authority.

Article 9. Right to marry and right to found a family

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 10. Freedom of thought, conscience and religion

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

Article 11. **Freedom of expression and information**

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
2. Freedom of the media and freedom of information shall be guaranteed with due respect for pluralism and transparency.

Article 12. **Freedom of assembly and of association**

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

Political parties at European level contribute to expressing the political will of the citizens of the Union.

Article 13. **Freedom of research**

Scientific research shall be free of constraint.

Article 14. **Right to education**

1. Everyone has the right to education and to have access to vocational and continuing training. This right includes the right to receive free compulsory education.
2. 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 guaranteed, in accordance with the national laws governing the exercise of such freedom and right.

Article 15. **Freedom to choose an occupation**

1. To earn a living, everyone has the right to engage in a freely chosen occupation.
2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide or receive services in any Member State.
3. Nationals of third countries who are authorised to reside in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.

Article 16. **Freedom to conduct a business**

The freedom to conduct a business is recognised.

Article 17. **Right to property**

1. Every person has the right to own, use, dispose of and bequeath his lawfully acquired possessions. No one may be deprived of his possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation. The use of property may be regulated insofar as is necessary for the general interest.
2. Intellectual property shall be protected.

Article 18. **Right to asylum**

The right to asylum shall be guaranteed 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 in accordance with the Treaty establishing the European Community.

Article 19. **Protection in the event of removal, expulsion or extradition**

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

CHAPTER III. EQUALITY

Article 20. **Equality before the law**

Everyone, man or woman, is equal before the law.

Article 21. **Equality and non-discrimination**

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of 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.

Article 22. **Equality between men and women**

Equal opportunities and equal treatment for men and women as regards employment and work, including equal pay for equal work or for work of equal value, must be ensured.

The principle of equal treatment shall not prevent the maintenance or adoption of measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

Article 23. **Protection of children**

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

Article 24. **Integration of persons with disabilities**

Persons with disabilities have the right to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

CHAPTER IV. SOLIDARITY

Article 25. **Workers' right to information and consultation within the undertaking**

Workers and their representatives must be guaranteed information and consultation in good time on matters which concern them within the undertaking, in accordance with Community law and national laws and practices.

Article 26. **Right of collective bargaining and action**

Employers and workers have the right to negotiate and conclude collective agreements and, in cases of conflicts of interest, to take collective action to defend their interests, in accordance with Community law and national laws and practices.

Article 27. **Right of access to placement services**

Everyone has the right of access to a placement service.

Article 28. **Protection in the event of unjustified dismissal**

Every worker has the right to protection against unjustified dismissal.

Article 29. **Fair and just working conditions**

1. Every worker has the right to working conditions which respect his or her health, safety and dignity.
2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.

Article 30. **Protection of young people at work**

The employment of children is prohibited. The minimum age of admission to employment must not be lower than the minimum school-leaving age without prejudice to such rules as may be more favourable to young people and except for limited derogations.

Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.

Article 31. **Reconciling family and professional life**

The family shall enjoy legal, economic and social protection.

Everyone shall have the right to reconcile their family and professional lives, which includes in particular the right to protection from dismissal because of pregnancy and the right to paid maternity leave and to parental leave following the birth or adoption of a child.

Article 32. **Social security and social assistance**

1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in the event of maternity, illness, industrial accidents, dependency or old age and in the event of loss of employment, in accordance with the rules laid down by Community law and national laws and practices.
2. Workers who are nationals of a Member State residing in another Member State, and members of their families, have the right to the same social security benefits, social advantages and access to health care as nationals of that State.
3. The Union recognises and respects the right to social assistance and housing benefit in order to ensure a decent existence for persons lacking sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.

Article 33. **Health care**

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices.

Article 34. **Access to services of general economic interest**

The Union respects the access to services of general economic interest as provided for in national laws and practices in accordance with the provisions of the Treaty establishing the European Community in order to promote the social and territorial cohesion of the Union.

Article 35. **Environmental protection**

All Union policies shall ensure the protection and preservation of a good quality living environment and the improvement of the quality of the environment, taking into account the principle of sustainable development.

Article 36. **Consumer Protection**

Union policies shall ensure a high level of protection as regards the health, safety and interests of consumers.

CHAPTER V. CITIZENSHIP

Article 37. **Right to vote and to stand as a candidate in elections to the
European Parliament**

1. Every citizen of the Union has the right to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides, under the same conditions as nationals of that State.
2. Members of the European Parliament shall be elected by direct universal suffrage by free and secret ballot.

Article 38. **Right to vote and to stand as a candidate at municipal elections**

Every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides under the same conditions as nationals of that State.

Article 39. **Right to good administration**

1. Every person has the right to have his affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.
2. This right includes:
 - the right of every person to be heard before any individual measure which would affect him adversely is taken in relation to him;
 - the right of every person to have access to his file, while respecting the legitimate interests of confidentiality and of business secrecy;
 - the obligation of the administration to give reasons for its decisions.
3. Every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
4. Every person may write to the institutions of the Union in one of the official languages of such institutions and have an answer in the same language.

Article 40. **Right of access to documents**

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to European Parliament, Council and Commission documents.

Article 41. **Ombudsman**

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the Ombudsman of the Union cases of maladministration by Community institutions and bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role.

Article 42. **Right to petition**

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to petition the European Parliament.

Article 43. **Freedom of movement and of residence**

1. Every citizen of the Union has the right to move and reside freely within the territory of the Member States.
2. Freedom of movement may be granted, in accordance with the Treaty establishing the European Community, to nationals of third countries legally resident in the territory of a Member State.

Article 44: **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.

CHAPTER VI. JUSTICE

Article 45. Right to an effective remedy and to a fair trial

1. Everyone whose rights and freedoms are violated has the right to an effective remedy before a court.
2. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.
3. Legal aid shall be made available to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice.

Article 46. Presumption of innocence and right of defence

1. Everyone who has been charged shall be presumed innocent until proved guilty according to law.
2. Respect for the right of defence of anyone who has been charged shall be guaranteed.

Article 47. Principles of legality and proportionality of criminal offences and penalties

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed. If, subsequent to the commission of the criminal offence, the law provides for a lighter penalty, that penalty shall be applicable.

2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to international law.
3. The severity of penalties shall be proportional to the gravity of the criminal offence.

Article 48. **Right not to be tried or punished twice in criminal proceedings for the same criminal offence**

No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he has already been finally acquitted or convicted in accordance with the law.

CHAPTER VII. GENERAL PROVISIONS

Article 49. **Scope**

1. The provisions of this Charter are addressed to the institutions and bodies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers.
2. This Charter does not establish any new power or task for the Community or the Union, or modify powers and tasks defined by the Treaties.

Article 50. **Scope of guaranteed rights**

1. Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by the competent legislative authority. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest being pursued by the Union, other legitimate interests in a democratic society or the need to protect the rights and freedoms of others.
2. Rights recognised by this Charter which are based on the Community Treaties or the Treaty on European Union shall be exercised under the conditions and within the limits defined by those Treaties.
3. Insofar as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be similar to those conferred on them by the said Convention unless this Charter affords greater or more extensive protection.

Article 51. **Level of protection**

Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by international law and international agreements to which the Union, the Community or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and by the Member States' constitutions.

Article 52. **Prohibition of abuse of rights**

Nothing in this Charter shall be interpreted as implying any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognised in this Charter or at their limitation to a greater extent than is provided for herein.

