

Wednesday, 12 April 1989

## PART II

## Texts adopted by the European Parliament

## 1. Declaration of fundamental rights

— Doc. A2-3/89

## RESOLUTION

## adopting the Declaration of fundamental rights and freedoms

*The European Parliament,*

- having regard to the motion for a resolution tabled by Mr Luster and Mr Pfennig to supplement the draft Treaty establishing the European Union (Doc. 2-363/84),
  - having regard to the Treaties establishing the European Communities,
  - having regard to its draft Treaty establishing the European Union adopted on 14 February 1984, in particular Articles 4 (3) and 7 (1),
  - having regard to its resolution of 29 October 1982 on the Memorandum from the Commission on the accession of the European Community to the Convention for the Protection of Human Rights and Fundamental Freedoms (2),
  - having regard to the Joint Declaration on Fundamental Rights (3),
  - having regard to the preamble to the Single Act,
  - having regard to the shared general principles of the law of the Member States,
  - having regard to the case law of the Court of Justice of the European Communities,
  - having regard to the Universal Declaration of Human Rights,
  - having regard to the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights,
  - having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols,
  - having regard to the European Social Charter and its Protocol,
  - having regard to the report of the Committee on Institutional Affairs and the opinion of the Committee on Social Affairs and Employment (Doc. A2-3/89),
- A. whereas, as pointed out in the preamble to the Single Act, it is essential to promote democracy on the basis of fundamental rights,
- B. whereas respect for fundamental rights is indispensable for the legitimacy of the Community,
- C. whereas it is up to the European Parliament to contribute to the development of a model of society which is based on respect for fundamental rights and freedoms and tolerance,

(1) OJ No C 77, 19.3.1984, p. 33.

(2) OJ No C 304, 22.11.1982, p. 253.

(3) OJ No C 103, 27.4.1977, p. 1.

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- D. whereas the identity of the Community makes it essential to give expression to the shared values of the citizens of Europe,
  - E. whereas there can be no European citizenship unless every citizen enjoys equal protection of his rights and freedoms in the field of application of Community law <sup>(1)</sup>,
  - F. whereas it is determined to sustain its efforts to promote the achievement of European Union,
  - G. whereas it is determined to achieve a basic Community instrument with a binding legal character guaranteeing fundamental rights,
  - H. whereas in the meantime, pending ratification of such an instrument, Parliament restates the legal principles already accepted by the Community,
  - I. whereas completion of the single market scheduled for 1993 lends greater urgency to the need to adopt a Declaration of rights and freedoms guaranteed in and by Community law,
  - J. whereas it is the responsibility of the European Parliament directly elected by the citizens of Europe to draw up such a Declaration,
1. Hereby adopts the following Declaration and invites the other Community institutions and the Member States to associate themselves normally with this Declaration;
  2. Instructs its President to forward this resolution and the Declaration to the other Community institutions and the Governments of the Member States.

<sup>(1)</sup> See Article 3 of the draft Treaty establishing the European Union.

## DECLARATION OF FUNDAMENTAL RIGHTS AND FREEDOMS

### *PREAMBLE*

#### *IN THE NAME OF THE PEOPLES OF EUROPE*

Whereas with a view to continuing and reviving the democratic unification of Europe, having regard to the creation of an internal area without frontiers and mindful of the particular responsibility of the European Parliament with regard to the well-being of men and women, it is essential that Europe reaffirm the existence of a common legal tradition based on respect for human dignity and fundamental rights,

Whereas measures incompatible with fundamental rights are inadmissible and recalling that these rights derive from the Treaties establishing the European Communities, the constitutional traditions common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the institutional instruments in force and have been developed in the case law of the Court of Justice of the European Communities,

The European Parliament, lending expression to these rights, hereby adopts the following Declaration, calls on all citizens actively to uphold it and present it to the Parliament which is to be elected in June 1989.

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**GENERAL PROVISIONS****Article 1***(Dignity)*

Human dignity shall be inviolable.

**Article 2***(Right to life)*

Everyone shall have the right to life, liberty and security of person.

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

**Article 3***(Equality before the law)*

1. In the field of application of Community law, everyone shall be equal before the law.
2. Any discrimination on grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status shall be prohibited.
3. Any discrimination between European citizens on the grounds of nationality shall be prohibited.
4. Equality must be secured between men and women before the law, particularly in the areas of work, education, the family, social welfare and training.

**Article 4***(Freedom of thought)*

Everyone shall have the right to freedom of thought, conscience and religion.

**Article 5***(Freedom of opinion and information)*

1. Everyone have the right to freedom of expression. This right shall include freedom of opinion and the freedom to receive and impart information and ideas, particularly philosophical, political and religious.
2. Art, science and research shall be free of constraint. Academic freedom shall be respected.

**Article 6***(Privacy)*

1. Everyone shall have the right to respect and protection for their identity.
2. Respect for privacy and family life, reputation, the home and private correspondence shall be guaranteed.

**Article 7***(Protection of family)*

The family shall enjoy legal, economic and social protection.

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**Article 8***(Freedom of movement)*

1. Community citizens shall have the right to move freely and choose their residence within Community territory. They may pursue the occupation of their choice within that territory.
2. Community citizens shall be free to leave and return to Community territory.
3. The above rights shall not be subject to any restrictions except those that are in conformity with the Treaties establishing the European Communities.

**Article 9***(Right of ownership)*

The right of ownership shall be guaranteed. No one shall be deprived of their possessions except where deemed necessary in the public interest and in the cases and subject to the conditions provided for by law and subject to fair compensation.

**Article 10***(Freedom of assembly)*

Everyone shall have the right to take part in peaceful meetings and demonstrations.

**Article 11***(Freedom of association)*

1. Everyone shall have the right to freedom of association including the right to form and join political parties and trade unions.
2. No one shall in their private life be required to disclose their membership of any association which is not illegal.

**Article 12***(Freedom to choose an occupation)*

1. Everyone shall have the right to choose freely an occupation and a place of work and to pursue freely that occupation.
2. Everyone shall have the right to appropriate vocational training in accordance with their abilities and fitting them for work.
3. No one shall be arbitrarily deprived of their work and no one shall be forced to take up specific work.

**Article 13***(Working conditions)*

1. Everyone shall have the right to just working conditions.
2. The necessary measures shall be taken with a view to guaranteeing health and safety in the workplace and a level of remuneration which makes it possible to lead a decent life.

**Article 14***(Collective social rights)*

1. The right of negotiation between employers and employees shall be guaranteed.
2. The right to take collective action, including the right to strike, shall be guaranteed subject to obligations that might arise from existing laws and collective agreements.

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3. Workers shall have the right to be informed regularly of the economic and financial situation of their undertaking and to be consulted on decisions likely to affect their interests.

#### Article 15

*(Social welfare)*

1. Everyone shall have the right to benefit from all measures enabling them to enjoy the best possible state of health.
2. Workers, self-employed persons and their dependants shall have the right to social security or an equivalent system.
3. Anyone lacking sufficient resources shall have the right to social and medical assistance.
4. Those who, through no fault of their own, are unable to house themselves adequately, shall have the right to assistance in this respect from the appropriate public authorities.

#### Article 16

*(Right to education)*

Everyone shall have the right to education and vocational training appropriate to their abilities.

There shall be freedom in education.

Parents shall have the right to make provision for such education in accordance with their religious and philosophical convictions.

#### Article 17

*(Principle of democracy)*

1. All public authority emanates from the people and must be exercised in accordance with the principles of the rule of law.
2. Every public authority must be directly elected or answerable to a directly elected parliament.
3. European citizens shall have the right to take part in the election of Members of the European Parliament by free, direct and secret universal suffrage.
4. European citizens shall have an equal right to vote and stand for election.
5. The above rights shall not be subject to restrictions except where such restrictions are in conformity with the Treaties establishing the European Communities.

#### Article 18

*(Right of access to information)*

Everyone shall be guaranteed the right of access and the right to corrections to administrative documents and data concerning them.

#### Article 19

*(Access to the courts)*

1. Anyone whose rights and freedoms have been infringed shall have the right to bring an action in a court or tribunal specified by law.
2. Everyone shall be entitled to have their case heard fairly, publicly and within a reasonable time limit by an independent and impartial court or tribunal established by law.
3. Access to justice shall be effective and shall involve the provision of legal aid to those who lack sufficient resources otherwise to afford legal representation.

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#### Article 20

*(Non bis in idem)*

No one shall be tried or convicted for offences for which they have already been acquitted or convicted.

#### Article 21

*(Non-retroactivity)*

No liability shall be incurred for any act or omission to which no liability applied under the law at the time when it was committed.

#### Article 22

*(Death penalty)*

The death penalty shall be abolished.

#### Article 23

*(Right of petition)*

Everyone shall have the right to address written requests or complaints to the European Parliament.

The detailed provisions governing the exercise of this right shall be laid down by the European Parliament.

#### Article 24

*(Environment and consumer protection)*

1. The following shall form an integral part of Community policy:
  - the preservation, protection and improvement of the quality of the environment,
  - the protection of consumers and users against the risks of damage to their health and safety and against unfair commercial transactions.
2. The Community institutions shall be required to adopt all the measures necessary for the attainment of these objectives.

### FINAL PROVISIONS

#### Article 25

*(Field of application)*

1. This Declaration shall afford protection for every citizen in the field of application of Community law.
2. Where certain rights are set aside for Community citizens, it may be decided to extend all or part of the benefit of these rights to other persons.
3. A Community citizen within the meaning of this Declaration shall be any person possessing the nationality of one of the Member States.

#### Article 26

*(Limits)*

The rights and freedoms set out in this Declaration may be restricted within reasonable limits necessary in a democratic society only by a law which must at all events respect the substance of such rights and freedoms.

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**Article 27***(Degree of protection)*

No provision in this Declaration shall be interpreted as restricting the protection afforded by Community law, the law of the Member States, international law and international conventions and accord on fundamental rights and freedoms or as standing in the way of its development.

**Article 28***(Abuse of rights)*

No provision in this Declaration shall be interpreted as implying any right to engage in any activity or perform any act aimed at restricting or destroying the rights and freedoms set out therein.

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