



Resolution 1210 (2000)¹

Charter of Fundamental Rights of the European Union

Parliamentary Assembly

1. The Assembly considers it necessary to make a number of observations following the decision by the EU European Council in Cologne, on 3 and 4 June, 1999 to draw up a charter of fundamental rights of the European Union, to be submitted to the European Council in December 2000.
2. At this stage, without knowing the charter's content, the Assembly wishes to bring a number of matters to the attention of those responsible for drafting this instrument, that is to say the "body" established to that end in Tampere, and may have occasion to make observations on the substance of the charter in due course.
3. The European institutions, first the Communities and then the European Union, have for some time past shown an interest in human rights, in particular the European Convention on Human Rights, and have mentioned those rights as the foundation of democracy in their successive treaties. The European Parliament and the Commission have on a number of occasions come out in favour of the Union's accession to the Convention. The Parliamentary Assembly has itself welcomed this proposal. However, it has not yet been translated into action, following an opinion by the Court of Justice in Luxembourg on whether accession to the European Convention on Human Rights was compatible with the Community treaties, in which the Court found that, as Community law stood at the time, the Community had no competence to accede.
4. At a time when it is reinforcing its powers, the Union wishes to make the importance of human rights more visible to its citizens, as stated in the decision taken in Cologne, and to bring these currently scattered rights together in a single text. The Assembly welcomes this initiative as a sign of a resolve to strengthen further the cause of human rights in Europe.
5. The Assembly nonetheless considers that, in adopting a charter of fundamental rights, the achievements of the European Convention on Human Rights and the body of its case-law established over almost fifty years, which has had far-reaching effects on the law of the member states of the Council of Europe, and therefore of the European Union, cannot be disregarded. It further draws attention to the risks of having two sets of fundamental rights which would weaken the European Court of Human Rights.
6. In this connection, the Assembly recalls the communication of 19 November 1990 issued by the Commission of the European Communities on accession to the European Convention on Human Rights, in which it stated that accession did not rule out the option of a set of fundamental rights specific to the Community. The opposite inference can therefore be made, namely that adoption of a charter does not rule out accession to the European Convention on Human Rights.
7. The European Union and the Council of Europe undeniably guarantee a number of rights which are not contained in the European Convention on Human Rights, particularly economic and social rights, and the charter should therefore include these rights, adding to them others now accepted as fundamental rights. The Assembly draws attention to the other instruments for the protection of human rights on which the charter could draw, in particular the revised European Social Charter, which guarantees economic and social rights

1. Assembly debate on 25 January 2000 (3rd Sitting) (see [Doc. 8611](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Magnusson; [Doc. 8615](#), opinion of the Political Affairs Committee, rapporteur: Mr Clerfayt; and [Doc. 8627](#), opinion of the Social, Health and Family Affairs Committee, rapporteur: Mr Evin). Text adopted by the Assembly on 25 January 2000 (3rd Sitting).



and is an instrument to which the Assembly has invited the Union to accede. It recalls that, following the Treaty of Amsterdam, a reference to the Social Charter of the Council of Europe was included in the Treaty on European Union.

8. The Assembly refers to the European Union report, prepared in February 1999 by an expert group chaired by Professor Simitis, which recommends that Article 2 to Article 13 of the European Convention on Human Rights be incorporated into Community law, together with the rights secured in the protocols to the Convention. The inclusion of rights guaranteed by the Convention would be a means of avoiding having two different sets of rights in Europe, thus creating two categories of citizens enjoying different rights.

9. The Assembly believes that there can be no discrimination in the application of fundamental rights and that everyone coming under the jurisdiction of a Council of Europe member state must enjoy the protection of such rights, as provided for in Article 1 and Article 14 of the European Convention on Human Rights.

10. In conclusion, in the light of the above, the Assembly invites the European Union:

10.1. to incorporate the rights guaranteed in the European Convention on Human Rights and its protocols into the charter of fundamental rights and to do its utmost to safeguard the consistency of the protection of human rights in Europe and to avoid diverging interpretations of those rights;

10.2. to pronounce itself in favour of accession to the European Convention on Human Rights of the Council of Europe and to make the necessary amendments to the Community treaties;

10.3. to make sure that when referring to social rights the revised European Social Charter of the Council of Europe will be taken into account.