Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1228 (2000)[1]

Charter of Fundamental Rights of the European Union

Parliamentary Assembly

1. Following the adoption of Resolution 1210 (2000) on a charter of fundamental rights of the European Union on 25 January 2000, the Assembly has continued to follow with great interest the preparatory work on the charter, which is now entering its final stage.

2. The Assembly is led by its concern to ensure the full enjoyment of human rights and fundamental freedoms for all persons within the jurisdiction of European Union member states. The Assembly wants to encourage progress in this field made by the European Union. Its main concern is to avoid the emergence of new dividing lines in Europe by defending the consistency of human rights protection across the continent and avoiding diverging interpretations of these rights.

3. The Assembly recalls Recommendation 1415 (1999), according to which "economic and social rights are inherent aspects of human dignity and are clearly human rights, in the same way as are civil and political rights. These two categories of rights are interdependent and cannot be dealt with differently".

4. The Assembly welcomes the efforts undertaken by the European Union to enhance and make more visible the protection of human rights through the charter. The draft charter proposed by the Praesidium at the meeting of the Convention on 25 and 26 September 2000 reaffirms, inter alia, the European Convention on Human Rights, the Social Charter of the Council of Europe, and the case-law of the European Court of Human Rights. In so far as the draft charter contains rights which correspond to rights guaranteed by the European Convention on Human Rights, their meaning and scope shall be the same, thus guaranteeing that the draft charter's level of protection will not fall below that of the European Convention on Human Rights.

5. The Assembly further welcomes the fact that the draft charter recognises a number of rights and freedoms not included expressis verbis in the European Convention on Human Rights, such as the right to respect for physical and mental integrity, the prohibition of trafficking in human beings, the right to asylum and a number of important social and economic rights. However, the Assembly considers that the level of protection recognised by the draft charter should fully correspond to the level of protection afforded by the corresponding Council of Europe instruments, in particular the revised European Social Charter and the Convention on Human Rights and Biomedicine.

6. The Assembly also regrets that the draft charter makes no express reference to the rights of persons belonging to ethnic, religious or linguistic minorities, or indeed to the right to local and regional self-government – rights which are protected by Council of Europe instruments such as the Framework Convention for the Protection of National Minorities and the European Charter of Local Self-Government.

7. The Assembly is convinced that the aim of the draft charter, which is to enhance and make more visible the protection of fundamental rights in European Union member states, can only be reached if institutions and bodies of the European Union are bound not only by the draft charter, but also by the European Convention on Human Rights. In a democratic society, a system of checks and balances is essential. All member states of the European Union, honouring this democratic principle, have submitted themselves to the external

1. Assembly debate on 29 September 2000 (32nd Sitting) (see Doc. 8819, report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Magnusson; Doc. 8846, opinion of the Political Affairs Committee, rapporteur: Mr Clerfayt and Doc. 8847, opinion of the Social, Health and Family Affairs Committee, rapporteur: Mr Evin). Text adopted by the Assembly on 29 September 2000 (32ndSitting).

supervision of the European Court of Human Rights under the Convention, without endangering national sovereignty or the principle of subsidiarity. There is no legitimate reason why acts carried out on behalf of the European Union should be exempt from this fundamental external control mechanism, thus in effect withdrawing the protection of the European Convention on Human Rights from persons adversely affected in their fundamental rights and freedoms by Community law. As the European Commission has pointed out, the existence of a charter does not diminish the interest in acceding to the European Convention on Human Rights for exactly these reasons.

8. The new internal legal system that the Union wishes to create should reflect its global role. It must help to offset trends towards a “fortress Europe” and be at the forefront of combating racism, xenophobia and ethnic violence. In this context, consideration ought to be given to the question of the political rights of nationals of third partiy countries established in the Union.

9. In this connection, the Assembly welcomes the resolution of the European Parliament, adopted on 16 March 2000, in which the European Parliament invites the Intergovernmental Conference (IGC) to enable the European Union to become a party to the European Convention on Human Rights. The Assembly further agrees with the European Commission that the drafting of the charter does not preclude the accession of the European Union to the European Convention on Human Rights, and that this accession would in no way lessen the importance of the charter.

10. The Assembly therefore reiterates its appeal to the European Union to do its utmost to safeguard the consistency of human rights protection in Europe. It thus invites the European Union and its member states to:

10.1. that both the text of the proposed charter and its ultimate application fully reflect and preserve the protection extended by the European Convention on Human Rights and the European Court of Human Rights to every person within the jurisdiction of European Union member states;

10.2. ensure that the social rights guaranteed by the charter correspond to those set forth in the revised European Social Charter;

10.3. enter into negotiations with the Council of Europe without delay in order to enable the European Union to accede to the European Convention on Human Rights as soon as possible by drawing up the necessary amendments to both the European Union treaties and the European Convention on Human Rights.