



The European Community and human rights



COMMISSION
OF THE EUROPEAN
COMMUNITIES

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Cataloguing data can be found at the end of this publication.

Luxembourg: Office for Official Publications of the European Communities,
1993

ISBN 92-826-5083-9

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Printed in Germany

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INTRODUCTION

Human rights: the European Community and its international environment

*December 1948:
Universal Declaration of Human Rights by the United Nations*

26 June 1945

The Charter establishing the United Nations was signed in San Francisco by 51 States. The Second World War had ended in Europe barely 50 days earlier and would come to a close in the Far East only 18 days later with the bombings of Hiroshima and Nagasaki. This had been total war in terms of not only the military resources used and the millions of lives lost but also the most appalling and systematic violations of human rights committed. The purpose of the United Nations, then, was to establish a new international order inspired by the lessons drawn from the failure of the League of Nations, with the special responsibilities of the great powers balanced by the participation of all nations.

The Charter is first and foremost the expression of that hope. It calls on all members of the human family to found peace between the nations on democracy and respect for the human rights and fundamental freedoms of all, 'without distinction as to race, sex, language, or religion'. A network of specialized agencies in the economic and social fields (e.g. those set up under the Bretton Woods agreements and the Havana Charter, and the already existing International Labour Organization) would subsequently be constituted to fill out the UN system.

The Universal Declaration of Human Rights was proclaimed by the UN General Assembly in Paris on 10 December 1948. Only eight countries abstained — the Soviet Union and the other Eastern Bloc countries, Saudi Arabia and South Africa. The East-West ideological divide was thus firmly established, and thenceforward the 'cold war' continued unabated until the late 1980s.

Conceived of as 'a common standard of achievement for all peoples and all nations', the Declaration was the first attempt by lawyers and politicians to identify values common to human society and to construct an international order based on the protection of the fundamental freedoms and rights of the individual against abuse by States. In 1966 the Declaration was supplemented by two

Covenants, the first on economic, social and cultural rights and the second on civil and political rights. These international agreements have been ratified by a large number of States.

These three instruments together constitute the International Bill of Human Rights. Although initially treated with a certain scepticism by the public, the Bill is now regarded as one of the most important documents of our time: by virtue of the gradual 'constitutionalization' of human rights which it has inspired in the domestic legal systems of many countries, the numerous interstate commitments which it has fostered in the form of agreements based on respect for these texts and its function as a major source of reference for non-governmental organizations striving to protect human dignity throughout the world. The effective universal implementation of the UN instruments and the strengthening of international monitoring procedures are now a major imperative in the eyes of every international or supranational organization, every State, every non-governmental organization and every individual. No national, cultural or religious consideration may be invoked as grounds for disregarding them.

These commitments have served as the basis for regional instruments for the protection of human rights. The European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 and the American Convention on Human Rights of 1969 are both inspired by the central concern for the individual and proclaim similar rights. The 1981 African Charter on Human and Peoples' Rights is based on a different concept, referring both to the relationship between the individual and the group and to the rights of peoples.

November 1950:

Council of Europe: European Convention for the Protection of Human Rights and Fundamental Freedoms

The Second World War left Europe in ruins. A continent which had long played an active role in history now found itself in the role of passive observer. In its long-established nations, there was a strong temptation to revert to the past and seek new balances of power by the rules of traditional diplomacy. However, other schools of thought were preaching not only reconciliation between yesterday's enemies but also a radical revolution in the relations between the nations of Europe. From 7 to 10 May 1948, 800 well-known representatives of the world of politics, law and the arts from 19 European countries, most of them from the movements which had actively resisted Fascism, met in Congress in The Hague and called for the creation of a European constituent parliamentary assembly.

This Congress signalled the birth of modern Europe and laid the foundation for a series of institutional structures that have marked the history of Western Europe up to the present day and around which, since the fall of the Berlin Wall and the disappearance of the Communist regimes, we can see the outlines of a new order encompassing the entire continent.

The immediate consequence of the Hague Congress was the creation one year later of the Council of Europe by 10 States: Belgium, Denmark, France, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden and the United Kingdom — to be joined in 1950 by the Federal Republic of Germany, Greece, Iceland and Turkey. Through its two organs — an intergovernmental Committee of Ministers and a supranational Consultative Assembly with only limited powers — the Council of Europe met the main needs of the postwar years: consolidation of democracy, assertion of the rule of law, emphasis on human dignity and respect for human rights. These are the criteria for admission to the Council of Europe and the essential obligations incumbent on its members.

Within its terms of reference, which cover all areas except defence, the Council of Europe has made remarkable achievements over the last 40 years: more than 100 conventions bind its member countries in the most varied of fields. Following the accession of a number of Central and East European countries, it now has 27 members. The most striking of its achievements is the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950. More generally known as the European Convention on Human Rights (ECHR), the Convention, which entered into force in 1953, is the first international treaty under which respect for fundamental rights is collectively guaranteed by all the States belonging to the family of European democracies. In the terms of the preamble (fifth paragraph), the members of the Council of Europe 'have a common heritage of political traditions, ideals, freedom and the rule of law'. The Convention defines a common minimum of protection, which States are free to exceed, with a view to its incorporation into the national legal orders. The Convention stipulates that justice and peace are best maintained by 'an effective political democracy' and 'a common understanding and observance of ... human rights'. Its originality lies not so much in the rights that it enshrines as in the institutional machinery for protection which it sets up. The bodies responsible for overseeing its application, i.e. the Commission and Court of Human Rights, have since demonstrated their wisdom and effectiveness.

The Convention affords persons, non-governmental organizations or groups of individuals who consider their fundamental rights to have been violated the right to lodge 'individual' petitions against a particular Member State. A Commission consisting of eminent jurists sitting in an individual capacity and not as represen-

tatives of the States examines petitions referred to it. Thousands of such petitions are submitted but only a small number of them prove to be admissible. The Commission can bring a case of alleged violation of human rights before the European Court. To date, the Court has built up a body of more than 200 judgments.

The second method of monitoring the provisions of the European Convention on Human Rights is that of 'State' actions brought by one or more States against another contracting party.

The European Convention on Human Rights is the oldest, most detailed and legally most binding of the 'regional' systems for the protection of human rights. In 1961 the Council of Europe also adopted the European Social Charter, which commits signatory States to take active steps to secure the conditions necessary for the full enjoyment of the following fundamental rights: the right to work, the right to safe working conditions, the right to a fair remuneration, and the right to vocational training. This Charter sets a very high standard for the obligations characterizing the European social model. However, its force is more moral than legal in that the Member States are allowed many options.

*August 1975:
Final Act of the Helsinki Conference on Security and Cooperation
in Europe*

When the Conference on Security and Cooperation in Europe (CSCE) opened in Helsinki on 3 July 1973 with the participation of 33 European States, the United States of America and Canada, East-West *détente* had just begun, thanks mainly to the progress made in the debate on the 'German question'.

In Helsinki, the Soviet Union sought to secure confirmation of the status quo and recognition of its role as a protagonist in Europe's security. The Western countries were seeking pledges of goodwill in the military sphere, a way of transcending the ideological polarization between the two blocs and, lastly, the establishment of a procedure for the regular review of progress made in the three 'baskets' of potential areas of cooperation: 'questions relating to security in Europe', 'cooperation in the fields of economics, science and technology and the environment' and 'cooperation in humanitarian and other fields'.

The Final Act, signed by the Heads of State or Government of the 35 participant States, also bears the signature of the President of the Council on behalf of the European Community, a fact which affords the other participants the assurance that the conclusions of the Conference will be implemented by the Community

in those areas that already fall within its jurisdiction or will come to do so at a later date.

The 10 'principles guiding relations between participating States' set forth in the Final Act include the general principle of 'respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief' (principle VII).

As regards the third basket, the Final Act pledges the participants to facilitate the reuniting of families separated by historical events, to facilitate marriages between citizens of different States, to improve the working conditions of journalists and to develop cultural contacts.

These advances, though seemingly meagre at the time, were, we now know, of enormous importance to dissident and opposition movements in Eastern Europe and the Soviet Union. The small opening created by the Helsinki Final Act enabled them to set up vigilance groups to monitor the application of the resolutions adopted and to develop close links with the press and intellectual and political circles in the West. A second opening in the Iron Curtain was the development of economic relations between the participant countries and the multiplication of contacts between Western firms and the industrial and commercial decision-makers of the Communist world. The third opening was the institutionalization of CSCE follow-up meetings every two years, making it possible to keep up the pressure on the political leaders in the East.

Three major meetings — in Belgrade in 1977 and 1978, in Madrid from 1980 to 1983 and in Vienna from 1986 to 1989 — marked the approach which characterized the CSCE until the end of the 1980s: the three main baskets were closely interconnected, and progress in one had to be accompanied by parallel progress in the others. An improvement in the economic sector, for example, was inconceivable without corresponding advances in the human rights field.

The Vienna meeting marked a turning-point in the CSCE process. Between the time when it opened and the time when it closed, events occurred which totally transformed the political situation in Europe and which consequently necessitated both a strengthening of the commitments made since 1975 and the establishment of an appropriate framework for giving effect to them. This new momentum was reflected in particular by the introduction of a new concept, that of the 'human dimension', accompanied by a 'human dimension mechanism' enabling checks to be made on the observance of human rights in the participant States. A number of *ad hoc* conferences were subsequently held, during which the various aspects of the human dimension were examined in depth.

'Human rights, democracy and the rule of law' are inseparably linked to the foundation of freedom, justice and peace, and are the cornerstone of the new Europe. The Heads of State or Government of the signatory countries of the Helsinki Final Act assembled in Paris in November 1990 to set new, more ambitious objectives more in line with the expectations of the peoples of Europe at the end of 'the era of confrontation and division'. They confirmed this commitment in the Charter of Paris for a New Europe, which was signed both by the President of the European Council and by the President of the Commission.

At the follow-up meeting held in Helsinki in July 1992, the Heads of State or Government of the 52 CSCE participant States agreed to enhanced commitments in the human dimension, especially in a number of sensitive areas such as national minorities, democracy at a local and regional level, migrant workers, tolerance and free media. Appropriate instruments for monitoring the implementation of these commitments and for conflict prevention and crisis management were strengthened and a post of High Commissioner for National Minorities created.

Human rights in the Treaties establishing the European Communities

The Council of Europe had barely come into existence in 1949 when six of its founder countries — Belgium, France, the Federal Republic of Germany, Italy, Luxembourg and the Netherlands — decided to integrate their economies in two sectors which, in the climate of the postwar years, were politically, economically and socially sensitive. This decision was embodied in the Treaty of Paris on coal and steel of 18 April 1951. Common institutions endowed with extensive powers — a High Authority, a Common Assembly, a Council of Ministers and a Court of Justice — were placed in charge of this radical transformation of relations between sovereign States united by 'real solidarity'. The governments of those other countries which had been too hesitant or sceptical to take part in the initiative from the outset would be entitled to apply for accession at some future date.

In this first Community Treaty, the rule of law is represented by the Court of Justice and democracy by the Assembly. If human rights, in their broadest sense, are hardly mentioned, it is because the focus of concern is 'peoples' rather than 'individuals'. The objective was 'to create, by establishing an economic community, the basis for a broader and deeper community among peoples long divided by bloody conflicts; and to lay the foundations for institutions which will give direction to a destiny henceforward shared'. The design of the 'founding fathers' relied on a gradual method.

Consequently, the accomplishment of economic objectives necessarily entailed the eventual establishment of political union.

After the failure of the plans for a political and defence union three years earlier, the Treaty establishing the European Economic Community, signed in Rome on 25 March 1957, could but extend and thereby confirm the approach followed in the ECSC Treaty. It set out to 'lay the foundations of an ever closer union among the peoples of Europe' and to create a common market with autonomous trade and competition policies for all industrial sectors and a comprehensive policy for agricultural producers. Like the Treaty of Paris, the new initiative was open to the other countries of Western Europe. In 1960 seven of them — Austria, Denmark, Norway, Portugal, Sweden, Switzerland and the United Kingdom — having less ambitious aims, set up the European Free Trade Association (EFTA). However, the success of the Community soon prompted these countries to seek closer links with it.

In the field of human rights, the Treaty of Rome makes no more explicit reference to the international texts than does the Treaty of Paris. However, two fundamental rights enshrined both in the Universal Declaration of Human Rights and in the Council of Europe Convention do in fact fall within the specific ambit of the Community institutions: the freedom of movement for workers and

self-employed persons afforded by Articles 48 to 58 and the decidedly more innovative prohibition of any discrimination on grounds of nationality (Articles 7, 48 and 220) or sex (Article 119). These articles of the Treaty of Rome have served as the basis for very important legislation and case-law in matters of equal treatment, access to employment (even, within certain limits, in the public sector) and the promotion of sexual equality from school to working life. The provisions of the Treaty of Rome concerning the supervisory powers of the European Parliament (Articles 137, 138 and 144) and enforcement of the law by the Court of Justice (Article 164) are an expression of the concern to have regard for democratic principles and values right from the source. This precaution was particularly warranted by the fact that Community legislation was to undergo constant development and extend to new fields through Article 235.

Case-law of the Court of Justice of the European Communities

Observance and protection of human rights and fundamental freedoms in the Community are matters which fall primarily within the jurisdiction of the Member States: the individual is protected by, on the one hand, national constitutional provisions and, on the other, the supervision which — as far as their powers allow — the bodies of the European Convention on Human Rights exercise over domestic legal systems.

The fact remains, however, that the Community institutions are not subject to the direct supervision of the Strasbourg Court and enjoy — or suffer from — a sort of immunity. Initially, their activities were neither guided by reference values of any greater scope than those relating to economic prosperity nor subject to any external supervision. Consequently, it was to be expected that, some day, a proceeding would come before a national court in which the two great principles of Community law — its uniform application in all the Member States and its primacy over national law — would clash with the constitutional provisions in the area of fundamental rights in the Member State concerned.

It was not long before the problem arose. In October 1967 a decision by the German Constitutional Court in Karlsruhe, questioning the democratic legitimacy of the Community's legal order and rejecting its primacy in that respect over the national systems, stated that the transfer of powers to the Community could not deprive (in this case German) citizens of the protection afforded them by national constitutional provisions on human rights. Similar reservations were expressed by Italy's Constitutional Court some years later. The European Community was therefore faced with the need to define values of reference going beyond the purely economic.

In this connection, the Luxembourg Court of Justice has gradually produced a body of case-law on the role of human rights in the Community legal order. First, in two judgments given in 1969 and 1970, the Luxembourg judges referred explicitly for the first time to 'constitutional traditions common to the Member States' as considerations of fundamental relevance to the Court's judgments. Second, in the *Nold* judgment of 1974, they stated their inability to 'uphold measures which are incompatible with fundamental rights recognized and protected by the constitutions of (the Member) States' or with 'international treaties for the protection of human rights on which the Member States have collaborated or of which they are signatories'. And in the *Rutili* judgment of 1975, the Court finally made express reference to the articles of the European Convention on Human Rights.

The wealth of case-law built up by the Court since its landmark judgments of 1969-75 is thus based on principles which are no longer likely to be called in question and which have provided the evolving basis for an unwritten bill of rights for the Community.

The Court acts *ex post facto*. Yet, observance of these principles must be ensured from when the Community's powers are implemented. The institutions — European Parliament, Council and Commission — pledged themselves to this effect in their Joint Declaration of 5 April 1977 by stressing their intention, 'in the exercise of their powers and in pursuance of the aims of the European Communities', to respect 'fundamental rights as derived ... from the constitutions of the Member States and the European Convention for the Protection of Human Rights and Fundamental Freedoms'. In April 1978 the Heads of State or Government endorsed this by solemnly declaring that 'respect for and maintenance of representative democracy and human rights in each Member State are essential elements of membership of the European Communities'.

The judgments of the Court of Justice and the Joint Declaration, then, clearly established that human rights must be treated as a primary consideration in the exercise of Community powers. The question immediately arose of what these considerations were. Ought the Community to draw up its own bill of human rights? Or should the Community, by procedures suited to its particular nature, simply accede to the Council of Europe Convention? Two years later, a Commission memorandum circumscribed this problem by setting out the arguments both for and against.

The ensuing debate between the political, parliamentary and legal authorities had no immediate outcome. It was to resume at a later date.

The Community then took a historic step towards democratization — the first direct elections to the European Parliament. However, other internal problems continued to divide it. New momentum was to come with the entry into force, on 29 June 1987, of the Single European Act.

Meanwhile, the existence and growth of racist and xenophobic attitudes, movements and acts of violence in the Community prompted Parliament, the Council, the representatives of the Member States meeting within the Council and the Commission vigorously to condemn 'all forms of intolerance, hostility and use of force against persons or groups of persons on the grounds of racial, religious, cultural, social or national differences'. As the institutions would subsequently reiterate on many occasions, the European Council expressed the shared resolve to safeguard the personality and dignity of each member of society and combat all forms of segregation against foreigners.

Human rights in the internal activities of the Community since 1987

The Single Act was the first 'constitutional' revision, duly ratified by the parliaments of the 12 Member States, of the Treaties establishing the European Communities and of the provisions relating to political cooperation brought together for the first time in a single instrument. The Community was committed to a comprehensive process, the main characteristics of which are summarized below.

The provisions setting out the powers of the Community institutions and those relating to intergovernmental cooperation in the field of foreign policy, both of which contribute to 'progress towards European unity' under the authority of the European Council, were encompassed by a single text for the first time. Human rights were finally mentioned 'in black and white' in the preamble to the Act — as regards their protection within the Community by reference to the constitutions and laws of the Member States and the Council of Europe Convention, and as regards relations with non-member countries by reference to the United Nations Charter.

The Single Act set the objective of establishing 'an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured' by 1993. This required the adoption of a massive body of legislation with direct or indirect implications for the fundamental freedoms of Community citizens in a wide range of fields: the crossing of borders, the right of residence, freedom of establishment and freedom to provide services in a number of entirely new spheres (banking, insurance, investment companies, airlines, road transport,

television broadcasting, copyright, advertising, medicinal products, transmission and protection of data, etc.). The prospect of the single market prompted the Member States to embark on a process of concluding harmonization agreements in fields which, although not covered by the Single Act, would, if left as they stood, have made the objective of a 'frontier-free internal area' illusory. Two intergovernmental agreements were consequently drawn up, one concerning the processing of applications for asylum by no more than one Member State (Dublin, June 1990) and the other creating, from the point of view of the free movement of persons, a frontier-free area between eight Member States (Schengen, June 1990).

At the same time, the Community's powers were extended to new horizontal fields, which also had an impact on the decisions setting up the single market: protection of the environment, consumers' rights and social legislation, particularly in the matter of the health and safety of workers.

Parliament's role in the legislative process, particularly as regards the establishment and operation of the single market, has been increased, and accession or association agreements and agreements with other countries, unions of States or international organizations are subject to its prior agreement (assent).

At this time when the 'frontier-free area' is gradually being set up and as the implementing decisions take effect, whether by regulation or by directive, consideration for the individual at Community level is reflected in the emergence of new individual rights at the same time as the strengthening of previously established rights. It is therefore worthwhile recalling the main examples and examining the new issues now appearing on the horizon.

The right to vote

Citizens of the Community have directly elected their representatives at the European Parliament since 1979. By virtue of the greater prerogatives assigned to it by the Single Act, Parliament exercises direct power over the European Commission (appointment and right of censure), the budget (last word), the legislative process (right to be consulted and cooperation procedure) and agreements with non-member countries (assent).

The right of residence

Automatic issue and renewal of a residence permit valid for at least five years — save in exceptional circumstances relating to public policy or public health. It applies to wage-earners or self-employed persons and to retired people and their families. Students are entitled to a renewable one-year residence permit. On presentation of a passport or identity card, jobseekers may visit another Community country to look for employment.

Access to employment

Discrimination on grounds of nationality is prohibited in the private sector. The same prohibition applies in the public service except in those areas where the overriding interests of the State come into play (police, armed forces, diplomatic corps, tax authorities, judiciary, legislative positions and so forth). Systems for the recognition of occupational qualifications have been set up as a way of facilitating access to employment.

Economic and social rights

People working in a country other than their own enjoy the same wage, social, tax and social security rights (sickness benefits, unemployment benefits, family allowances) as nationals of the host country. Over and above the rights of workers exercising their right of free movement, the Community has adopted common rules in the field of health and safety at the workplace. A 'Community Charter of the Fundamental Social Rights of Workers' was adopted by 11 Member States in 1989. It serves as a reference basis for a more effective recognition of the Community's social dimension.

Sexual equality

Community legislation and case-law have provided strong encouragement for equality between the sexes in the fields of pay, social security and access to employment. Since 1982 the Community has also been endeavouring to transform equality in law into equality in practice.

Education, training and youth

Various cooperation programmes are being developed at Community level with the aim of heightening young people's awareness of belonging to a solidarity-based, multilingual and multicultural society. Disadvantaged groups such as the children of migrant workers are paid special attention.

Workers from non-member countries

Immigration policy is a matter for each State. Agreements between the Community and some countries or groups of countries which are particularly important from the point of view of immigration stipulate equal treatment for the nationals of these countries in matters of social security and working conditions.

Health care

Community citizens who suddenly fall ill while on holiday in another Member State are entitled to the medical treatment available in that State as if they were insured there. Subject to prior authorization from their own health insurance system, they may also go to another country of their choice for treatment.

Science and technology

Developments in the medical, pharmacological and genetic engineering fields pose ethical and legal problems which may entail responsibilities and solutions at Community level too, as in the case of organ transplants, medicinal products derived from blood and medically assisted reproduction. The Directives on the confined use and voluntary distribution of genetically modified organisms reflect the close interlinking of science, economics and ethics. The Community research programmes on the analysis of the human genome and, more generally, on biomedical ethics are contributing to the developments taking place all over Europe. *Ad hoc* working parties, including one on the human embryo, have been set up to advise the institutions on ethical aspects.

Consumer health and safety

In the single market, commercial freedom is restrained by a double guarantee requirement. For the (very many) products which present obvious consumer health and safety risks, Community legislation lays down 'basic requirements' industry by industry (motor vehicles, machinery, electrical goods, pressure-operated goods, toys, etc.). In the case of other products, a general Directive requires manufacturers and distributors to place on the market only those goods which are safe in normal conditions of use and to inform the consumer of all risks connected with their use. The system is completed by ensuring that individual consumers and consumer organizations have access to the courts in the Member States, in accordance with the principle of *lex fori*, or to the European courts.

Environment

The restrictions which the protection of consumer health and safety imposes on the principles of freedom to do business, free movement of goods and competition also apply in respect of protection of the environment. Whether by means of defensive or preventive measures, the Community institutions are required to ensure the quality of the environment by means of a specific policy to which the other common policies (agriculture, transport, economic assistance for the regions) must conform. Community legislation may be challenged in the Court of Justice. Individuals who consider a national measure incompatible with Community law may apply to the national courts.

Freedom of expression and information

In parallel with a complementary Council of Europe convention, the Community 'television without frontiers' Directive of April 1989 laid down the principle of unrestricted transmission and reception of broadcasts from any Member State. It provides for a 'right of reply' for persons who suffer damage as a result of an incorrect allegation, promotes pluralism of information by imposing quantitative restrictions on the air time allocated to advertising and provides for the protection of minors.

Protection of personal data

Interactive information retrieval will encounter no further technical obstacles in the Community following the adoption of the Directive laying down the principles governing notification and consent of the individual, his/her right to rectification or erasure of erroneous data and special protection for the most sensitive data. Likewise, the police and security cooperation introduced by the Schengen Agreement (June 1990) affords guarantees as regards the protection of data of a personal nature.

Right to petition the European Parliament

Anyone wishing to make a complaint concerning a matter falling within the scope of the Community's activities is entitled to petition Parliament. The President of Parliament submits citizens' complaints to the Committee on Petitions, which decides whether or not they are admissible. The President then asks the Commission, the Council or the national authorities to take the appropriate action. Petitioners are informed of the Committee's findings.

Complaints to the Commission

Every citizen has the right to lodge a complaint with the Commission if he/she considers that Community law is not being complied with. Once the matter has undergone a preliminary examination, the Commission decides whether or not infringement proceedings should be commenced against the Member State concerned before the Court of Justice.

The growth of the Community's activities since the adoption of the Single Act has thus resulted in the extension and amplification of the rights of individuals both in the traditional sphere of economic and social rights and in that of political and civil rights (a newer area for the Community). Ways and means have also been introduced for individuals to defend their interests with the Commission and the European Parliament. However, the Community is not entirely above criticism.

*Problems raised by accession to the
European Convention*

However satisfactory the procedures devised by the Court of Justice, however significant the commitments made by the other Community institutions and however few the cases of human rights violations attributable to them may be, there is a shortcoming that cannot be remedied by the Court of Justice: the absence of written rules as regards human rights and fundamental freedoms which the Community might pledge itself to observe and promote.

As a way of overcoming this problem, the Commission suggested in 1979 that the legal acts of the institutions should be brought under the supervisory mechanisms set up by the Council of Europe Convention on Human Rights (Commission and Court of Human Rights), thus making the Community subject to the same control as all its Member States.

The European Parliament took the route of producing the Community's own bill of rights: on 12 April 1989 it adopted a Declaration of Fundamental Rights and Freedoms consisting of 28 articles laying down the basic principles of 'a common legal tradition based on respect for human dignity and fundamental rights'.

The idea of the Community acceding to the European Convention on Human Rights was officially relaunched by the Commission in 1990. Apart from the certainty and predictability which it would afford people as regards the nature and extent of their legitimate rights, a decision to accede would have very far-reaching political significance.

- At a stroke it would symbolize the 'common values' that go to make up European citizenship and European identity in the world.
- It would enhance the credibility of action taken by the Community and the Member States to defend human rights in the world. In particular, it would consolidate respect for human rights in those countries of Central and Eastern Europe that have become members of the Council of Europe and are preparing to join the Community in the medium term.

It would not, for all that, entail any general powers for the Community in the field of human rights and would not preclude writing a detailed bill of rights into the Community Treaties at some future time.

Human rights in the external policy of the Community

The European Community in international politics

European integration in the field of foreign and defence policy was envisaged from the very signing of the Treaty of Paris establishing the European Coal and Steel Community. This was followed shortly afterwards by the signing of a treaty establishing a European Defence Community, but that was rejected by the French National Assembly in 1954. This aspect of European integration was excluded from the Treaties signed in Rome in March 1957. However, the need for a political dimension to Community action was felt from the very early years of the common market onwards. It was ultimately the summit held in The Hague in December 1969 which made it possible to renew the quest for a political dimension for the Community.

The objectives of European political cooperation defined in 1970 were rather modest: by means of regular information and consultations to bring about better mutual understanding on the main issues of international politics and to promote the harmonization of points of view, the coordination of responses and, if possible, joint action in matters affecting Community interests. The Member States subsequently undertook to consult each other before adopting definitive positions or taking national initiatives on important foreign policy issues of relevance to them all. The Conference on Security and Cooperation in Europe, which opened in 1973, was certainly one of the first important instances of successful close cooperation between the Member States of the Community. Resolved to assert their common identity in a context where deliberations concerned the future of the continent, the Community countries took no initiative in Helsinki without first discussing it together. Another example is the Arab-Israeli conflict, which has also long been a major focus of the foreign policy of the Community and the Member States. The Venice Declaration of June 1980 has remained the basis for this, and its main principles have been constantly reaffirmed by the Heads of State or Government. In this connection it is particularly worth noting that, following the launch of the Middle East Peace Conference in Madrid on 29 October 1991, the European Community was co-organizer of the working groups set up in the 'multilateral phase' of the negotiations (regional economic development, water resources, environment, Palestinian refugees, etc.).

The major role played by European political cooperation is demonstrated further by the guidelines adopted on 16 December 1991 concerning the recognition of the new States emerging in Eastern Europe and from what was formerly the Soviet Union and Yugoslavia. The progress made on the democratization front

in Latin America also prompted the Community and its Member States to tighten up their links with the countries of Central and South America (San José and Rio Groups).

Respect for human rights has gradually become one of the cornerstones of the Community's external policy. The Community and its Member States have expressed their views both on specific cases and in international forums, notably the United Nations, on countless occasions. In a statement made in July 1986 the Foreign Ministers, noting the 'alarming' human rights situation worldwide, the persistent violations of individual liberties, the 'oppression and indiscriminate violence in many countries', the countless numbers of people who 'suffer hunger, disease and lack of opportunity', confirmed their intention to continue to act against violations of human rights in political cooperation and added that, in the development of their relations with non-member countries and in the administration of aid, the Community and its Member States would take particular account of the position as regards fundamental rights. A working party was set up to assess the human rights policy of the Community and its Member States. Since then, the President of the Council has sent Parliament an annual memorandum on the activities of the Community and its Member States in this field.

The Declaration adopted by the European Council on 29 June 1991 reaffirmed at the highest level that the observance, promotion and safeguarding of human rights were an essential aspect of international relations and one of the cornerstones of European political cooperation and of relations between the Community, its Member States and other countries. This Declaration — which is now an important point of reference for the Community and its Member States — underlines their attachment to the principles of parliamentary democracy and the rule of law. Likewise, it stresses the universality and indivisibility of rights and asserts that the strengthening of international monitoring mechanisms is a priority. Furthermore, it emphasizes the protection of minorities through the effective establishment of democracy and the special attention which should be paid to the most vulnerable groups such as children, women, old people, migrants and refugees. Lastly, the Declaration not only voices the conviction that violations of human rights and the suppression of individual freedoms prevent individuals from participating in the process of development but also refers to the attendant duty of the international community to show solidarity with and provide humanitarian assistance to the victims.

On 28 November 1991 the Community's political platform was extended by the adoption by the Council and the Member States of a resolution on human rights, democracy and development. The resolution established a framework for concertation and coordination of ways in which progress in the democracy and human

rights fields can be taken into account in bilateral aid policies and in the Community's policy on cooperation with the developing countries.

The resolution makes provision for differential treatment of recipient countries according to their performance as regards democracy and respect for the rights of the individual. Stress is laid on the need for a positive approach. None the less, appropriate measures are to be determined case by case in the light of circumstances and carried out only after all opportunities for dialogue with the government representatives of the countries concerned have been exhausted. Another parameter which will be of major importance is the level of defence spending: excessive military expenditure jeopardizes the development process, and cooperation with governments which maintain military structures which are far larger than necessary would be difficult to justify.

By opting for a positive approach, the Community and its Member States intend to give priority in their dialogue with the developing countries to measures to support the process of transition to democracy and to strengthen civil society. The purpose is not to promote the European model of democracy but to enable the countries concerned to build on their own experience and to assist them with whatever initiatives (holding of elections, organization of judicial system, improvement of treatment of offenders, measures to ensure equal opportunities, support for non-governmental organizations, etc.) they decide to take.

The particular importance of initiatives designed to provide active support for countries which introduce democracy, improve the human rights situation and promote good governance finds practical expression in the form of financial backing for democratization in the developing countries (consolidation of the rule of law, support for the process of transition to democracy and strengthening of civil society). This is provided if there are lasting effects in respect both of development and of human rights and democracy.

In this way, the Community's development cooperation policy contributes to the consolidation of democracy and the rule of law as well as to respect for human rights and fundamental freedoms.

While laying particular emphasis on positive measures, the Community and its Member States have to respond appropriately to serious and persistent violations of human rights or where the democratic processes are seriously interrupted. Such responses, decided on the basis of fair and objective criteria, need to be appropriate to the circumstances and proportional to the gravity of the situation: they range from joint statements and confidential or public representations to the governments concerned to more incisive measures such as the freezing of agreements or the suspension of financial aid. These measures must not penalize

the ordinary people of the countries concerned, especially the poorest among them. In all circumstances, the Community continues to grant, where necessary, humanitarian and emergency aid and, subject to strictly defined conditions, continues to provide joint finance for non-governmental organizations.

In their dealings, whether official or unofficial, with countries in which serious violations of human rights occur, the Community and the Member States systematically emphasize the need to guarantee fundamental freedoms and respect for human rights. Active involvement in international organizations cannot but promote the recognition of the duties and responsibilities of the international community and public awareness. The Community and its Member States have thus become increasingly concerned to project the 'European identity' in those United Nations bodies which have particular responsibility for monitoring human rights such as the General Assembly, the Economic and Social Council and the Commission on Human Rights. In these forums, the Community and the Member States coordinate their positions on the issues under discussion, jointly put forward draft resolutions, coordinate votes and (in the General Assembly) develop a direct dialogue with the various regional groups.

Human rights in the Community's agreements with non-member countries

The increasingly strong emphasis placed on human rights and the democratic process in the context of European political cooperation is also to be found in the Community's more and more numerous agreements with non-member countries. Gradually, but especially since 1990, the reference to the principles of the United Nations Charter contained in the preambles to such agreements have been reinforced by the inclusion of clauses on human rights in the actual body of the agreements. The Declaration of the European Council of 29 June 1991 mentioned above made this a general principle for all future agreements concluded by the Community or its Member States. The same principle was confirmed by the Council resolution of 28 November 1991 already referred to: 'The Community and its Member States will explicitly introduce the consideration of human rights as an element of their relations with developing countries; human rights clauses will be inserted in future cooperation agreements.'

In accordance with these guidelines, new agreements make explicit reference to respect for the democratic principles and human rights which underlie the domestic and international policies of the contracting parties; this is the case of the agreements with a number of countries in Latin America (for example,

Argentina, Chile, Paraguay and Uruguay) and Asia (for example, Mongolia and Macao). The principles are an essential component of some agreements (e.g. Brazil and the Andean Pact countries). Furthermore, clauses conferring on the parties 'the right to suspend this Agreement in whole or in part if a serious violation occurs of [its] essential provisions' have been written into the agreements signed by the Community in 1992 with certain CSCE countries (Estonia, Latvia, Lithuania, Albania and Slovenia).

The inclusion of such clauses serves to highlight the great importance which the Community attaches to respect for human rights and the democratic process, to promote economic and social rights in parallel with civil and political freedoms and to provide for a wide range of measures enabling the Community to take appropriate action as and when required.

CONCLUSION

Towards the 21st century

This cursory account of the European Community's historical development bears witness to the increasing importance which human rights and democratic values have come to acquire in all areas of Community activity. Although ignored in the earlier acts of the Community, the principles of representative democracy and respect for human rights have rapidly become one of the central strands of both European integration and the affirmation of Europe's identity throughout the world.

The Treaty on European Union signed on 7 February 1992 signifies a new chapter for the Community's 345 million people. All the nationals of the Member States are called on to share in this multicultural and multilingual civilization united by the same philosophy of the human condition and individual freedom, by the same understanding of the social contract and by the same ethical values. Every national of a Member State is a citizen of a Union which undertakes to uphold fundamental rights as guaranteed by the European Convention on Human Rights and as they emerge from the shared constitutional traditions of the Member States as general principles of Community law. Every citizen will be able to express his or her wishes through the political parties which, at European level, will be an important factor for integration within the Union. A Union which is closer to the citizens and which reaffirms the importance of the identities of the nations which make it up: the strict application of the subsidiarity principle to existing and future legislation by all the institutions will make it possible for European integration to progress in a manner consonant with the aspirations of the Member States and their citizens. The European Union will belong to its citizens. They are already free to live anywhere on its territory, where they enjoy a range of protection. They may vote and stand as candidates in municipal and European elections in their place of residence. Outside the Community, in a country where their own country is not represented, they will be entitled to the diplomatic and consular protection of any Member State on the same terms as nationals of that State.

The European Union also has a role to play in keeping the peace and consolidating international security and in promoting the development and further strengthening of democracy and the rule of law and respect for human rights and fundamental freedoms. In striving to safeguard its shared values, fundamental interests and independence, the Union is rooted in the moral, humanitarian and universal values to which Europe has contributed so much throughout its history.

ANNEX

Human rights and fundamental freedoms

Texts containing commitments made by the Community and its Member States and by the institutions

PARIS SUMMIT DECLARATION
(19 and 20 October 1972) (extract)

DOCUMENT ON THE EUROPEAN IDENTITY
(Copenhagen Summit, 14 December 1973) (extract)

JOINT DECLARATION ON FUNDAMENTAL RIGHTS
(European Parliament, Council and Commission, 5 April 1977)

DECLARATION ON DEMOCRACY
(Copenhagen European Council, 8 April 1978)

SINGLE EUROPEAN ACT
(February 1986)¹

DECLARATION AGAINST RACISM AND XENOPHOBIA
(European Parliament, Council, representatives of Member States meeting within the Council, and Commission, 11 June 1986)

STATEMENT ON HUMAN RIGHTS
(Foreign Ministers meeting in the framework of European political cooperation, and Council, 21 July 1986)

DECLARATION OF FUNDAMENTAL RIGHTS AND FREEDOMS
(European Parliament, 12 April 1989)

RESOLUTION ON THE FIGHT AGAINST RACISM AND XENOPHOBIA
(Council and representatives of Member States meeting within the Council, 29 May 1990)

¹ The Single Act entered into force on 1 July 1987. The text of the third paragraph was already to be found in the Solemn Declaration on European Union signed by the Heads of State or Government in Stuttgart on 19 June 1983.

DECLARATION ON ANTI-SEMITISM, RACISM AND XENOPHOBIA
(Dublin European Council, 25 and 26 June 1990)

DECLARATION ON HUMAN RIGHTS
(Luxembourg European Council, 28 and 29 June 1991)

RESOLUTION ON HUMAN RIGHTS, DEMOCRACY AND
DEVELOPMENT
(Council and Member States meeting within the Council, 28
November 1991)

DECLARATION ON RACISM AND XENOPHOBIA
(Maastricht European Council, 9 and 10 December 1991)

TREATY ON EUROPEAN UNION
Preamble, common provisions and specific provisions on citizenship
of the Union, development cooperation, a common foreign and
security policy and cooperation in the fields of justice and home
affairs (signed on 7 February 1992) (extracts)

PARIS SUMMIT DECLARATION

(19 and 20 October 1972)

(Extract)

'The Member States reaffirm their resolve to base their Community's development on democracy, freedom of opinion, free movement of men and ideas and participation by the people through their freely elected representatives.'

DOCUMENT ON THE EUROPEAN IDENTITY

(Copenhagen Summit, 14 December 1973)

(Extract)

'The Nine wish to ensure that the cherished values of their legal, political and moral order are respected, and to preserve the rich variety of their national cultures. Sharing as they do the same attitudes to life, based on a determination to build a society which measures up to the needs of the individual, they are determined to defend the principles of representative democracy, of the rule of law, of social justice — which is the ultimate goal of economic progress — and of respect for human rights. All of these are fundamental elements of the European identity.'

JOINT DECLARATION ON FUNDAMENTAL RIGHTS

*(European Parliament, Council and Commission,
5 April 1977)*

THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION

Whereas the Treaties establishing the European Communities are based on the principle of respect for the law;

Whereas, as the Court of Justice has recognized, that law comprises, over and above the rules embodied in the Treaties and secondary Community legislation, the general principles of law and in particular the fundamental rights, principles and rights on which the constitutional law of the Member States is based:

Whereas, in particular, all the Member States are Contracting Parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950.

HAVE ADOPTED THE FOLLOWING DECLARATION:

1. The European Parliament, the Council and the Commission stress the prime importance they attach to the protection of fundamental rights, as derived in particular from the constitutions of the Member States and the European Convention for the Protection of Human Rights and Fundamental Freedoms.
2. In the exercise of their powers and in pursuance of the aims of the European Communities they respect and will continue to respect these rights.

DECLARATION ON DEMOCRACY

(Copenhagen European Council, 8 April 1978)

'The election of the Members of the European Parliament by direct universal suffrage is an event of outstanding importance for the future of the European Communities and a vivid demonstration of the ideals of democracy shared by the people within them.

The creation of the Communities, which is the foundation of ever closer union among the peoples of Europe called for in the Treaty of Rome, marked the determination of their founders to strengthen the protection of peace and freedom.

The Heads of State and of Government confirm their will, as expressed in the Copenhagen Declaration on the European identity, to ensure that the cherished values of their legal, political and moral order are respected and to safeguard the principles of representative democracy, of the rule of law, of social justice and of respect for human rights.

The application of these principles implies a political system of pluralist democracy which guarantees both the free expression of opinions within the constitutional organization of powers and the procedures necessary for the protection of human rights.

The Heads of State and of Government associate themselves with the Joint Declaration by the European Parliament, the Council and the Commission whereby these institutions expressed their determination to respect fundamental rights in pursuing the aims of the Communities.

They solemnly declare that respect for and maintenance of representative democracy and human rights in each Member State are essential elements of membership of the European Communities.'

SINGLE EUROPEAN ACT

(February 1986)

HIS MAJESTY THE KING OF THE BELGIANS.
 HER MAJESTY THE QUEEN OF DENMARK.
 THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY.
 THE PRESIDENT OF THE HELLENIC REPUBLIC.
 HIS MAJESTY THE KING OF SPAIN.
 THE PRESIDENT OF THE FRENCH REPUBLIC.
 THE PRESIDENT OF IRELAND.
 THE PRESIDENT OF THE ITALIAN REPUBLIC.
 HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG.
 HER MAJESTY THE QUEEN OF THE NETHERLANDS.
 THE PRESIDENT OF THE PORTUGUESE REPUBLIC.
 HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.

MOVED by the will to continue the work undertaken on the basis of the Treaties establishing the European Communities and to transform relations as a whole among their States into a European Union, in accordance with the Solemn Declaration of Stuttgart of 19 June 1983,

RESOLVED to implement this European Union on the basis, firstly, of the Communities operating in accordance with their own rules and, secondly, of European Cooperation among the Signatory States in the sphere of foreign policy and to invest this union with the necessary means of action,

DETERMINED to work together to promote democracy on the basis of the fundamental rights recognized in the con-

stitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, notably freedom, equality and social justice.

CONVINCED that the European idea, the results achieved in the fields of economic integration and political cooperation, and the need for new developments correspond to the wishes of the democratic peoples of Europe, for whom the European Parliament, elected by universal suffrage, is an indispensable means of expression.

AWARE of the responsibility incumbent upon Europe to aim at speaking ever increasingly with one voice and to act with consistency and solidarity in order more effectively to protect its common interests and independence, in particular to display the principles of democracy and compliance with the law and with human rights to which they are attached, so that together they may make their own contribution to the preservation of international peace and security in accordance with the undertaking entered into by them within the framework of the United Nations Charter.

DETERMINED to improve the economic and social situation by extending common policies and pursuing new objectives, and to ensure a smoother functioning of the Communities by enabling the institutions to exercise their powers under conditions most in keeping with Community interests.

WHEREAS at their Conference in Paris from 19 to 21 October 1972 the Heads of State or of Government approved the objective of the progressive realization of Economic and Monetary Union,

HAVING REGARD to the Annex to the conclusions of the Presidency of the European Council in Bremen on 6 and 7 July 1978 and the Resolution of the

European Council in Brussels on 5 December 1978 on the introduction of the European Monetary System (EMS) and related questions, and noting that in accordance with that Resolution, the Community and the Central Banks of the Member States have taken a number of measures intended to implement monetary cooperation,

DECLARATION AGAINST RACISM AND XENOPHOBIA

*(European Parliament, Council, representatives of Member
States, meeting within the Council, and Commission,
11 June 1986)*

THE EUROPEAN PARLIAMENT, THE COUNCIL, THE REPRESENTATIVES OF
THE MEMBER STATES, MEETING WITHIN THE COUNCIL, AND THE COM-
MISSION,

Recognizing the existence and growth of xenophobic attitudes, movements
and acts of violence in the Community which are often directed against im-
migrants:

Whereas the Community institutions attach prime importance to respect for
fundamental rights, as solemnly proclaimed in the Joint Declaration of 5
April 1977, and to the principle of freedom of movement as laid down in the
Treaty of Rome:

Whereas respect for human dignity and the elimination of forms of racial
discrimination are part of the common cultural and legal heritage of all the
Member States:

Mindful of the positive contribution which workers who have their origins
in other Member States or in third countries have made, and can continue
to make, to the development of the Member State in which they legally reside
and of the resulting benefits for the Community as a whole,

1. vigorously condemn all forms of intolerance, hostility and use of force
against persons or groups of persons on the grounds of racial, religious,
cultural, social or national differences;
2. affirm their resolve to protect the individuality and dignity of every
member of society and to reject any form of segregation of foreigners;
3. look upon it as indispensable that all necessary steps be taken to
guarantee that this joint resolve is carried through;
4. are determined to pursue the endeavours already made to protect the in-
dividuality and dignity of every member of society and to reject any form
of segregation of foreigners;
5. stress the importance of adequate and objective information and of mak-
ing all citizens aware of the dangers of racism and xenophobia, and the
need to ensure that all acts or forms of discrimination are prevented or
curbed.

STATEMENT ON HUMAN RIGHTS

(Foreign Ministers meeting in the framework of European political cooperation and Council, 21 July 1986)

The Foreign Ministers of the European Community, meeting in the framework of European political cooperation and of the Council, have reviewed the principles of the human rights policy of the European Community and its Member States. They reaffirm that respect for human rights is one of the cornerstones of European cooperation. They further reaffirm their commitment to promote and protect human rights and fundamental freedoms and emphasize the importance in this context of the principles of parliamentary democracy and the rule of law.

The Twelve seek universal observance of human rights. The protection of human rights is the legitimate and continuous duty of the world community and of nations individually. Expressions of concern at violations of such rights cannot be considered interference in the domestic affairs of a State. The major United Nations instruments in the field of human rights should be universally ratified as soon as possible. States should cooperate with intergovernmental organizations which monitor implementation of human rights and of which they are a member. Respect for human rights is an important element in relations between third countries and the Europe of the Twelve.

The worldwide human rights situation remains alarming, in particular persistent violations of individual liberties as well as tyranny, oppression and indiscriminate violence in many countries. Concern for violation of human rights forms an important focus of attention for the Twelve, a concern ministers share with the European Parliament. In recent years the European partners have delivered various declarations on behalf of Foreign Ministers and made representations on numerous occasions with many governments, attempting to ameliorate the human rights situation in the countries concerned and to counter cases of specific human rights abuse. Joint statements in international fora on human rights issues have become standard practice for the Twelve, as have frequent discussions on all consultative levels existing among them. The Twelve will continue action within the framework of European political cooperation against violations in any part of the world.

Individuals and non-governmental organizations the world over have made valuable and courageous contributions to the protection and promotion of human rights. The Twelve appeal to all States to enhance public awareness concerning the cause of human rights through educational programmes and by allowing non-governmental organizations freely to disseminate human rights information.

The Twelve deplore the fact that countless people around the world suffer hunger, disease and lack of opportunity, thus being denied the enjoyment of the most basic economic and social rights. The promotion of economic, social and cultural rights as well as of civil and political rights is of paramount importance for the full realization of human dignity and for the attainment of legitimate aspirations of every individual. Neither lack of social and economic development, nor any persuasion or ideology may serve as a justification for the denial of civil and political rights. The Foreign Ministers affirm that in the development of their relations with non-member States as well as in the administration of aid the European Community and its Member States will continue to promote fundamental rights so that individuals and peoples will actually enjoy to the full their economic, social and cultural rights and their civil and political rights.

Lasting peace and security are unattainable without universal enjoyment of human rights. In view of their special responsibility as Europeans, the Twelve emphasize that respect for human rights by all States participating in the Conference on Security and Cooperation in Europe is an essential factor in achieving peace and security, justice and well-being in Europe.

DECLARATION OF FUNDAMENTAL RIGHTS AND FREEDOMS

(European Parliament, 12 April 1989)

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 and calls on all citizens actively to uphold it and present it to the Parliament which is to be elected in June 1989.

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 shall 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.

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.
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.

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.

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 accords 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.

RESOLUTION ON THE FIGHT AGAINST RACISM AND XENOPHOBIA

(Council and representatives of Member States, meeting within the Council, 29 May 1990)

THE COUNCIL OF THE EUROPEAN COMMUNITIES AND THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE COUNCIL,

Having regard to the Treaties establishing the European Communities,

Having regard to the opinion of the European Parliament,¹

Having regard to the opinion of the Economic and Social Committee,²

Whereas the fight against racism and xenophobia forms part of the broader context of protecting fundamental rights; whereas the joint declaration by the European Parliament, the Council and the Commission on Fundamental Rights of 5 April 1977³ bears witness to the prime importance that the Community institutions attach to respect for fundamental rights;

Whereas, in the Single European Act, the Member States stressed the need to "work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the

European Social Charter, notably freedom, equality and social justice";

Whereas, in its resolution of 16 July 1985 concerning guidelines for a Community policy on migration,⁴ the Council stressed that "with a view to the harmonious coexistence of nationals of the Member States and migrant workers and their families, initiatives should be developed at Community, Member State and local level to inform and to promote awareness";

Whereas, in its resolution of 16 January 1986,⁵ the European Parliament, noting the recommendations contained in the Committee of Enquiry's report on the rise of racism and fascism in Europe, called on "the Commission, the Council, the other Community institutions, the parliamentary committees, the Bureau of the European Parliament and the governments and parliaments of the Member States to take the measures necessary to put them into practice";

Whereas, on 11 June 1986, the European Parliament, the Council, the Representatives of the Member States, meeting within the Council, and the Commis-

¹ OJ C 69, 20.3.1989, p. 43.

² OJ C 23, 30.1.1989, p. 33.

³ OJ C 103, 27.4.1977, p. 1.

⁴ OJ C 186, 26.7.1985, p. 3.

⁵ OJ C 36, 17.7.1986, p. 142.

sion, recognizing "the existence and growth of xenophobic attitudes, movements and acts of violence in the Community which are often directed against immigrants", adopted a declaration against racism and xenophobia¹ "vigorously condemning all forms of intolerance, hostility and use of force against persons or groups of persons on the grounds of racial, religious, cultural, social or national differences; and looking upon it as indispensable that all necessary steps be taken to guarantee that their joint resolve to protect the individuality and dignity of every member of society and to reject any form of segregation of foreigners be carried through";

Whereas it behoves the institutions of the Communities and the competent authorities of the Member States, each in keeping with its powers, to take the necessary measures to implement this resolution.

1. TAKE NOTE of the Commission communication on the fight against racism and xenophobia concerning the implementation of the Interinstitutional Declaration of 11 June 1986 against racism and xenophobia aimed at protecting in that respect everyone within Community territory;

2. RECOGNIZE that acts inspired by racism and xenophobia may be countered by legislative or institutional measures such as the following:

(a) ratification, by those Member States which have not yet done so, of inter-

national instruments contributing to the fight against all forms of racial discrimination;

(b) recognition, by those Member States which have not yet done so, of the individual petitions referred to:

— in Article 25 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and

— in Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

ratification, if necessary, of the Optional Protocol to the International Covenant on Civil and Political Rights;

(c) resolute application of laws aimed at preventing or curbing discrimination or xenophobic acts and the preparation of such laws by those Member States which have not yet done so;

(d) efforts at national, regional and local level to integrate the different communities properly and, where appropriate, promotion of national mediation procedures;

(e) the granting to the bodies concerned in the fight against racism and xenophobia of the right to institute or support legal proceedings, to the extent that this is compatible with the legal system in the Member State concerned;

(f) the development of legal assistance, available in accordance with the rules of the legal system of the Member State concerned, to enable those concerned to defend their rights;

¹ OJ C 158, 25.6.1986, p. 1.

(g) underlining the importance of substantial measures to counter the possible effects on children of discriminatory acts based on racism and xenophobia:

3. CALL UPON the Member States to adopt such measures as they consider appropriate, paying particular attention to those referred to in point 2:

4. CONSIDER that an effective preventive information and education policy is of considerable importance in the fight against racism and xenophobia, and, in this context:

(a) in the field of information:

(i) note that the Commission, in compliance with Article 4 of the EEC Treaty:

- will make a comparative assessment of the legal instruments implemented in the various Member States to combat all forms of discrimination, racism and xenophobia and incitement to hatred and racial violence,
- will contribute to improved dissemination of information on these legal instruments,
- will promote demoscopic studies on the perception of democratic values and on the state of relations between the various communities living in Europe.

(ii) invite the Member States to:

- draw attention to the role that the media can play in

eliminating racial prejudice and promoting harmonious relations between the various communities living in Europe: encourage reflection on information when faced with instances of violence, particularly of a racial nature:

(b) in the field of education and young people:

(i) expect that the action taken to:

- promote a European dimension in education tailored to the specific situation of each Member State, such as will develop civic-mindedness and the values of pluralism and tolerance,
- promote exchange programmes for young people as a means of encouraging tolerance and understanding,
- develop and extend current community cooperation aimed at improving the education of migrant workers' children,

will make a significant contribution to, *inter alia*, reducing xenophobia and promoting and encouraging tolerance and mutual understanding:

(ii) recall the action already taken in this context, namely the:

- resolution of the Council and the Ministers of Education, meeting within the Council, of 24 May 1988 on the European dimension in education;

- Council Decision 88/348/EEC of 16 June 1988 adopting an action programme for the promotion of youth exchanges in the Community — “Youth for Europe” programme;¹
 - Council Directive 77/486/EEC of 25 July 1977 on the education of the children of migrant workers;²
 - actions to promote modern language teaching, actions for the schooling of the children of migrant workers and Community measures for the benefit of their languages and cultures of origin;
- (iii) invite the Member States to:
- encourage the civic and vocational training of teachers, particularly in areas with a large immigrant population, in order to introduce them to the characteristics of the various origins and cultures of their pupils and students.
 - encourage knowledge of the languages and cultures of origin:
5. STRESS the importance of all appropriate forms of cooperation between the Community and the Council of Europe;
 6. RECOGNIZE the significance of the action, and the initiatives promoted, by the United Nations in the fight against racial discrimination.

¹ OJ L 158, 25.6.1988, p. 42.

² OJ L 199, 6.8.1977, p. 32.

DECLARATION ON ANTI-SEMITISM, RACISM AND XENOPHOBIA

(Dublin European Council, 25 and 26 June 1990)

The European Council expresses its deep revulsion at recent manifestations of anti-Semitism, racism and xenophobia, particularly expressions of anti-Semitism involving acts of desecration perpetrated against the dead, which are calculated to cause the utmost distress to the living. It is all the more distressing that such abominations should enjoy any currency precisely at a time when we are commemorating the end of the Second World War.

The European Council deplores all manifestations of these phenomena. It agrees that vigorous measures must be taken to combat them, whenever and wherever they appear in the Community. The Member States will assess the extent to which their national legislation must effectively be used in order to counter them.

The European Council has taken note of the fact that these problems are not restricted to the Member States of the Community. Comparable outrages have also occurred in recent times elsewhere in Europe.

The European Council also recalls the Declaration of the Community Institutions and the Member States against Racism and Xenophobia of 11 June 1986. It considers respect for the dignity of the human being and the elimination of manifestations of discrimination to be of paramount importance. Such manifestations, including expressions of prejudice directed against foreign immigrants, are unacceptable. The European Council underlines the positive contribution that workers from third countries have made and continue to make to the development of the Community as a whole.

Against this background, the European Council recalls the United Nations Convention on the Elimination of Racial Discrimination, the Council of Europe Declaration on Intolerance, and ongoing work in the framework of the CSCE. The European Council supports action, notably in the context of the human dimension of the CSCE, to counter anti-Semitism, racism, incitement to hatred and xenophobia. The importance which the Community and its Member States attach to this subject is illustrated by the proposals against racism and xenophobia made in their name, and by the initiatives on related issues taken by individual Member States at the current session of the CHD in Copenhagen.

DECLARATION ON HUMAN RIGHTS

(Luxembourg European Council, 28 and 29 June 1991)

Recalling the 1986 Declaration of Foreign Ministers of the Community on Human Rights (21 July 1986), the European Council reaffirms that respecting, promoting and safeguarding human rights is an essential part of international relations and one of the cornerstones of European cooperation as well as of relations between the Community and its Member States and other countries. In this regard the European Council stresses its attachment to the principles of parliamentary democracy and the primacy of law.

The European Council welcomes the considerable progress made in recent years in the field of human rights, and the advances in democracy in Europe and throughout the world, particularly in certain developing countries. It welcomes the growing prominence of demands of peoples for freedom and democracy throughout the world.

It deplores, however, the persistence of flagrant violations of human rights in many countries. The Community and its Member States undertake to pursue their policy of promoting and safeguarding human rights and fundamental freedoms throughout the world. This is the legitimate and permanent duty of the world community and of all States acting individually or collectively. They recall that the different ways of expressing concern about violations of rights, as well as requests designed to secure those rights, cannot be considered as interference in the internal affairs of a State, and constitute an important and legitimate part of their dialogue with third countries. For their part, the Community and its Member States will continue to take up violations wherever they occur.

The European Community and its Member States seek universal respect for human rights. Many international instruments have been elaborated in the last decades, first among which rank the Universal Declaration of Human Rights and the Covenants on civil and political rights and on economic, social and cultural rights. No specific provision based on national, cultural or religious factors can validly be invoked to detract from the principles established by these instruments. The European Council calls on all States to become a party to the international instruments in force.

In the field of human rights, the effective and universal implementation of existing instruments and the strengthening of international mechanisms of control is a priority. The Community and its Member States will continue to work for the efficient functioning of such mechanisms in their ad-

ministrative, organizational and financial aspects. Moreover, they undertake, in the context of these mechanisms, to push for an improvement in the transparency of procedures. The European Council is well disposed towards the possibility of enabling individuals to be involved in the protection of their rights. The European Council calls for the cooperation of States with the intergovernmental organizations to which they belong in monitoring the implementation of human rights, in particular in the framework of the Commissions created by UN agreements and in regional institutions.

Tensions and conflicts arising from flagrant and systematic violations of human rights and fundamental freedoms in one country or in a specific region are often a threat to international peace and security.

The protection of minorities is ensured in the first place by the effective establishment of democracy. The European Council recalls the fundamental nature of the principle of non-discrimination. It stresses the need to protect human rights whether or not the persons concerned belong to minorities. The European Council reiterates the importance of respecting the cultural identity as well as rights enjoyed by members of minorities which such persons should be able to exercise in common with other members of their group. Respect of this principle will favour political, social and economic development.

The European Council recalls the indivisible character of human rights. The promotion of economic, social and cultural rights, as of civil and political rights, and of respect for religious freedom and freedom of worship, is of fundamental importance for the full realization of human dignity and of the legitimate aspirations of every individual. Democracy, pluralism, respect for human rights, institutions working within a constitutional framework, and responsible governments appointed following periodic, fair elections, as well as the recognition of the legitimate importance of the individual in a society, are essential prerequisites of sustained social and economic development.

The European Council deplors the fact that countless people in the world are victims of hunger, illness, illiteracy and extreme poverty, and are thus deprived of the most basic economic and social rights. It notes, moreover, that special attention should be paid to the most vulnerable categories of people, for example, children, women, old people, migrants and refugees.

The European Council believes that it is an affront to human dignity to deny help to victims in emergency situations or in extreme distress, particularly in cases of violence against innocent civilians and refugees. To the victim's need for humanitarian assistance corresponds a duty of solidarity of the States concerned and of the international community.

All lasting development should be centred on man as the bearer of human rights and beneficiary of the process of development. Violations of human

rights and suppression of individual freedoms impede an individual from participating in and contributing to this process. Through their policy of cooperation and by including clauses on human rights in economic and cooperation agreements with third countries, the Community and its Member States actively promote human rights and the participation, without discrimination, of all individuals or groups in the life of society, bearing in mind particularly the role of women.

The Council of Europe plays a leading role in the field of human rights with its expertise, its numerous projects in this field, training and educational activities, and programmes of cooperation with the countries of Central and Eastern Europe which possess or are seeking to possess democratic institutions. Under its aegis, the European Convention on the Protection of Human Rights and Fundamental Freedoms, given the binding character of its norms and the strictness and reliability of its provisions of control, is both an advanced, effective system of protection and a point of reference for other regions of the world. The European Council welcomes the readiness of the Council of Europe to put its experience at the service of the CSCE.

The Community and its Member States stress the importance they attach to the human dimension of the CSCE process, to its important contribution to democratic reforms in Europe, and to its considerable influence on the development of human rights in the European area. The European Council recalls the prospects opened up by the Final Document of the Copenhagen Conference in 1990 and the commitments undertaken when the Paris Charter was adopted. The mechanism of the Conference on the Human Dimension reflects participating States' conviction that upholding undertakings in the human rights field is the legitimate concern of the whole international community.

Individuals and non-governmental organizations throughout the world are making valuable and courageous contributions to safeguarding and promoting human rights. The European Council pays tribute to this commitment and deplores the fact that defenders of human rights are too often the first victims of the arbitrary treatment which they denounce. It calls on all States to enhance the attachment of their publics to the cause of human rights through educational programmes, and by allowing non-governmental organizations free access to information and free distribution of information on human rights. By drawing the attention of the public at large to governments' failings, the NGOs contribute significantly to the protection of individuals and the promotion of human rights in general.

The European Council reiterates the commitment of the Community and its Member States to support and promote, in regional and international bodies, that respect for human rights and fundamental freedoms without which peace and lasting security cannot be established.

RESOLUTION ON HUMAN RIGHTS, DEMOCRACY AND DEVELOPMENT

*(Council and Member States, meeting within the Council,
28 November 1991)*

1. The Council recalls the European Council Resolution of 29 June 1991 which stated that respect for human rights, the rule of law and the existence of political institutions which are effective, accountable and enjoy democratic legitimacy are the basis for equitable development. It also recalls the 1986 Declaration of Foreign Ministers of the Community on Human Rights (21 July 1986) and reaffirms that respecting, promoting and safeguarding human rights is an essential part of international relations and one of the cornerstones of European cooperation as well as of relations between the Community and its Member States and other countries. In this regard it stresses its attachment to the principles of representative democracy, of the rule of law, of social justice and of respect for human rights.

should be taken of the issue of good governance as well as of military spending.
 2. The Council shares the analysis contained in the Commission's communication of 25 March 1991 and acknowledges that human rights have a universal nature and it is the duty of all States to promote them. At the same time, human rights and democracy form part of a larger set of requirements in order to achieve balanced and sustainable development. In this context, account
- The Council considers it important that the Community and its Member States should have a common approach aimed at promoting human rights and democracy in developing countries. Such an approach would improve the cohesion and consistency of initiatives taken in this field. The objective of the present resolution is to formulate concrete guidelines, procedures and lines of action.

3. The Community and its Member States recognize the necessity of a consistent approach towards human rights, democracy and development in their cooperation with developing countries. Development cooperation is based on the central place of the individual and has, therefore, in essence to be designed with a view to promoting — in parallel with economic and social rights — civil and political liberties by means of representative democratic rule that is based on respect for human rights. They endorse, on the basis of these principles, the following approaches, instruments and activities.

4. The Community and its Member States will give high priority to a positive approach that stimulates respect for human rights and encourages democracy. An open and constructive dialogue between them and the governments of developing countries can make a very important contribution to the promotion of human rights and democracy. Various initiatives can be undertaken, for example, through active support for:

- countries which are attempting to institute democracy and improve their human rights performance;
- the holding of elections, the setting-up of new democratic institutions and the strengthening of the rule of law;
- the strengthening of the judiciary, the administration of justice, crime prevention and the treatment of offenders;
- promoting the role of NGOs and other institutions which are necessary for a pluralist society;
- the adoption of a decentralized approach to cooperation;
- ensuring equal opportunities for all.

At the request of the Commission or one of the Member States, the possibility of increased assistance to developing countries in which substantive positive changes in human rights and democracy have taken place will be examined.

5. The Council stresses the importance of good governance. While sovereign

States have the right to institute their own administrative structures and establish their own constitutional arrangements, equitable development can only effectively and sustainably be achieved if a number of general principles of government are adhered to: sensible economic and social policies, democratic decision-making, adequate governmental transparency and financial accountability, creation of a market-friendly environment for development, measures to combat corruption, as well as respect for the rule of law, human rights, and freedom of the press and expression. The Community and Member States will support the efforts of developing countries to advance good governance and these principles will be central in their existing or new development cooperation relationships.

6. While, in general, a positive and constructive approach should receive priority, in the event of grave and persistent human rights violations or the serious interruption of democratic processes, the Community and its Member States will consider appropriate responses in the light of the circumstances, guided by objective and equitable criteria. Such measures, which will be graduated according to the gravity of each case, could include confidential or public *démarches* as well as changes in the content or channels of cooperation programmes and the deferment of necessary signatures or decisions in the cooperation process or, when necessary, the suspension of cooperation with the States concerned.

The Member States and the Commission will exchange immediate information concerning such measures and consider joint approaches in reaction to violations. They will be informed in such cases through the EPC communications network and particular cases may be further discussed within the Council framework.

7. The Community's response to violations of human rights will avoid penalizing the population for governmental actions. Rather than simply discontinuing development cooperation, the Community and the Member States may adjust cooperation activities with a view to ensuring that development aid benefits more directly the poorest sections of the population in the country, for example through non-governmental or informal networks, while at the same time establishing a certain distance *vis-à-vis* the government concerned. Such adjustment will focus on the choice of partners of projects and of the type of cooperation programmes. In all cases, however, humanitarian and emergency aid, which directly benefit vulnerable populations, will continue to be made available.
8. The Council welcomes the efforts undertaken in recent years by developing countries to move towards democracy. It is recognized that governments have to build the political, economic and social structures to support democracy and that this is a gradual process which will sometimes take a relatively long period. The Community and its

Member States will support the process and hold regular informal exchanges of views on the best possible course of action in order to achieve lasting results as speedily as possible.

9. The Council attaches very great importance to the question of military spending. Excessive military expenditure not only reduces the funds available for other purposes, but can also contribute to increased regional tensions and violations of international law, as well as often being meant and used for purposes of internal repression and denial of universally recognized human rights.

Moreover, in a period in which donor countries are engaged in a process leading to levels of armament not exceeding sufficiency levels, development cooperation with governments which maintain much larger military structures than needed will become difficult to justify. In the dialogue with their partners in developing countries, the Community and its Member States will stress the negative effects of excessive military spending on the development process. They will consider adopting concrete measures in their cooperation in order to encourage developing countries to reduce their military expenditure, which is often excessive in relation to their legitimate security needs, and simultaneously to implement development projects of an economic and social nature, with particular emphasis on the education and health sectors. With this in mind, they may consider increasing support for countries which achieve

substantial reductions in their military expenditure, or reducing support for countries which fail to do so. The Council recognizes the need for restraint and transparency in the transfer of conventional weapons to developing countries. It will further examine the question of military spending by developing countries along these lines. The Community and its Member States will request countries with which development cooperation relationships are maintained to cooperate voluntarily with the new UN register of arms transfers.

10. The Community and its Member States will explicitly introduce the consideration of human rights as an element of their relations with developing countries; human rights clauses will be inserted in future cooperation agreements. Regular discussions on human rights and democracy will be held, within the framework of development cooperation, with the aim of seeking improvements.

In order to facilitate timely support by the Community for initiatives in

developing countries aiming at the promotion of respect for human rights and the encouragement of democracy and good governance it is intended to expand resources devoted to these ends within the overall allocations available for development. Sound activities in Third World countries promoting human rights and democracy, both by governments and by non-governmental entities, will be eligible for financial support. The Community and its Member States undertake in addition to integrate the promotion of respect for human rights and the advancement of democracy in their future cooperation programmes.

The Commission will transmit an annual report to the Council on the implementation of this resolution.

In addition to the consultations and meetings which can be convened as stipulated in paragraphs 4, 5 and 6, a meeting will be held annually by representatives of the Commission and Member States to consider policies and specific lines of action to further enhance respect for human rights and establishment of representative democratic rule.

DECLARATION ON RACISM AND XENOPHOBIA

(Maastricht European Council, 9 and 10 December 1991)

The European Council notes with concern that manifestations of racism and xenophobia are steadily growing in Europe, both in the Member States of the Community and elsewhere.

The European Council stresses the undiminished validity of international obligations with regard to combating discrimination and racism to which the Member States have committed themselves within the framework of the United Nations, the Council of Europe and the CSCE.

The European Council recalls the Declaration against racism and xenophobia issued by the European Parliament, Council and Commission on 11 June 1986 and, reaffirming its Declaration issued in Dublin on 26 June 1990, expresses its revulsion against racist sentiments and manifestations. These manifestations, including expressions of prejudice and violence against foreign immigrants and exploitation of them, are unacceptable.

The European Council expresses its conviction that respect for human dignity is essential to the Europe of the Community and that combating discrimination in all its forms is therefore vital to the European Community, as a community of States governed by the rule of law. The European Council therefore considers it necessary that the governments and parliaments of the Member States should act clearly and unambiguously to counter the growth of sentiments and manifestations of racism and xenophobia.

The European Council asks Ministers and the Commission to increase their efforts to combat discrimination and xenophobia, and to strengthen the legal protection for third-country nationals in the territories of the Member States.

Lastly, the European Council notes that, in connection with the upheavals in Eastern Europe, similar sentiments of intolerance and xenophobia are manifesting themselves in extreme forms of nationalism and ethnocentrism. The policies of the Community and its Member States towards the countries concerned will aim to discourage strongly such manifestations.

TREATY ON EUROPEAN UNION

(7 February 1992)

(Extracts)

HIS MAJESTY THE KING OF THE BELGIANS.

HER MAJESTY THE QUEEN OF DENMARK.

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY.

THE PRESIDENT OF THE HELLENIC REPUBLIC.

HIS MAJESTY THE KING OF SPAIN.

THE PRESIDENT OF THE FRENCH REPUBLIC.

THE PRESIDENT OF IRELAND.

THE PRESIDENT OF THE ITALIAN REPUBLIC.

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG.

HER MAJESTY THE QUEEN OF THE NETHERLANDS.

THE PRESIDENT OF THE PORTUGUESE REPUBLIC.

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND.

RESOLVED to mark a new stage in the process of European integration
undertaken with the establishment of the European Communities.

RECALLING the historic importance of the ending of the division of the
European continent and the need to create firm bases for the construction
of the future Europe.

CONFIRMING their attachment to the principles of liberty, democracy and
respect for human rights and fundamental freedoms and of the rule of law.

DESIRING to deepen the solidarity between their peoples while respecting
their history, their culture and their traditions.

DESIRING to enhance further the democratic and efficient functioning of
the institutions so as to enable them better to carry out, within a single in-
stitutional framework, the tasks entrusted to them.

RESOLVED to achieve the strengthening and the convergence of their economies and to establish an economic and monetary union including, in accordance with the provisions of this Treaty, a single and stable currency.

DETERMINED to promote economic and social progress for their peoples, within the context of the accomplishment of the internal market and of reinforced cohesion and environmental protection, and to implement policies ensuring that advances in economic integration are accompanied by parallel progress in other fields.

RESOLVED to establish a citizenship common to nationals of their countries.

RESOLVED to implement a common foreign and security policy including the eventual framing of a common defence policy, which might in time lead to a common defence, thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and in the world.

REAFFIRMING their objective to facilitate the free movement of persons, while ensuring the safety and security of their peoples, by including provisions on justice and home affairs in this Treaty.

RESOLVED to continue the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity.

IN VIEW of further steps to be taken in order to advance European integration.

HAVE DECIDED to establish a European Union ...

TITLE I

COMMON PROVISIONS

Article B

The Union shall set itself the following objectives:

- to promote economic and social progress which is balanced and sustainable, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union, ultimately including a single currency in accordance with the provisions of this Treaty;
- to assert its identity on the international scene, in particular through the implementation of a common foreign and security policy including the eventual framing of a common defence policy, which might in time lead to a common defence;

- to strengthen the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union;
- to develop close cooperation on justice and home affairs;
- to maintain in full the *acquis communautaire* and build on it with a view to considering, through the procedure referred to in Article N (2), to what extent the policies and forms of cooperation introduced by this Treaty may need to be revised with the aim of ensuring the effectiveness of the mechanisms and the institutions of the Community.

The objectives of the Union shall be achieved as provided in this Treaty and in accordance with the conditions and the timetable set out therein while respecting the principle of subsidiarity as defined in

Article 3b of the Treaty establishing the European Community.

Article F

1. The Union shall respect the national identities of its Member States, whose systems of government are founded on the principles of democracy.
2. The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.
3. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

Part Two

CITIZENSHIP OF THE UNION

Article 8

1. Citizenship of the Union is hereby established.

Every person holding the nationality of a Member State shall be a citizen of the Union.

2. Citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby.

Article 8a

1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect.

2. The Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1; save

as otherwise provided in this Treaty, the Council shall act unanimously on a proposal from the Commission and after obtaining the assent of the European Parliament.

Article 8b

1. Every citizen of the Union residing in a Member State of which he is not a national shall have 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. This right shall be exercised subject to detailed arrangements to be adopted before 31 December 1994 by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.

2. Without prejudice to Article 138(3) and to the provisions adopted for its implementation, every citizen of the Union residing in a Member State of which he is not a national shall have 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. This right shall be exercised subject to detailed arrangements to be adopted before 31 December 1993 by the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament; these arrangements may provide for derogations where warranted by problems specific to a Member State.

Article 8c

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 State. Before 31 December 1993, Member States shall establish the necessary rules among themselves and start the international negotiations required to secure this protection.

Article 8d

Every citizen of the Union shall have the right to petition the European Parliament in accordance with Article 138d. Every citizen of the Union may apply to the Ombudsman established in accordance with Article 138e.

Article 8e

The Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee before 31 December 1993 and then every three years on the application of the provisions of this Part. This report shall take account of the development of the Union.

On this basis, and without prejudice to the other provisions of this Treaty, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may adopt provisions to strengthen or to add to the rights laid down in this Part, which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

...

TITLE XVII

DEVELOPMENT COOPERATION

Article 130u

1. Community policy in the sphere of development cooperation, which shall be complementary to the policies pursued by the Member States, shall foster:

- the sustainable economic and social development of the developing countries, and more particularly the most disadvantaged among them;
- the smooth and gradual integration of the developing countries into the world economy;

— the campaign against poverty in the developing countries.

2. Community policy in this area shall contribute to the general objective of developing and consolidating democracy and the rule of law, and to that of respecting human rights and fundamental freedoms.

TITLE V

PROVISIONS ON A COMMON FOREIGN AND SECURITY POLICY

Article J

A common foreign and security policy is hereby established which shall be governed by the following provisions.

— to strengthen the security of the Union and its Member States in all ways;

— to preserve peace and strengthen international security, in accordance with the principles of the United Nations Charter as well as the principles of the Helsinki Final Act and the objectives of the Paris Charter;

— to promote international cooperation;

— to develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms.

Article J.1

1. The Union and its Member States shall define and implement a common foreign and security policy, governed by the provisions of this Title and covering all areas of foreign and security policy.

2. The objectives of the common foreign and security policy shall be:

- to safeguard the common values, fundamental interests and independence of the Union;

...

TITLE VI

PROVISIONS ON COOPERATION IN THE FIELDS OF JUSTICE
AND HOME AFFAIRS

Article K

Cooperation in the fields of justice and home affairs shall be governed by the following provisions.

Article K.1

For the purposes of achieving the objectives of the Union, in particular the free movement of persons, and without prejudice to the powers of the European Community, Member States shall regard the following areas as matters of common interest:

- (1) asylum policy;
- (2) rules governing the crossing by persons of the external borders of the Member States and the exercise of controls thereon;
- (3) immigration policy and policy regarding nationals of third countries:
 - (a) conditions of entry and movement by nationals of third countries on the territory of Member States;
 - (b) conditions of residence by nationals of third countries on the territory of Member States, including family reunion and access to employment;
 - (c) combating unauthorized immigration, residence and work by nationals of third countries on the territory of Member States;
- (4) combating drug addiction in so far as this is not covered by (7) to (9);

(5) combating fraud on an international scale in so far as this is not covered by (7) to (9);

(6) judicial cooperation in civil matters;

(7) judicial cooperation in criminal matters;

(8) customs cooperation;

(9) police cooperation for the purposes of preventing and combating terrorism, unlawful drug trafficking and other serious forms of international crime, including if necessary certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European Police Office (Europol).

Article K.2

1. The matters referred to in Article K.1 shall be dealt with in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 and the Convention relating to the Status of Refugees of 28 July 1951 and having regard to the protection afforded by Member States to persons persecuted on political grounds.

2. This Title shall not affect the exercise of the responsibilities incumbent upon Member States with regard to the maintenance of law and order and the safeguarding of internal security.

European Communities — Commission

The European Community and human rights

Luxembourg: Office for Official Publications of the European Communities

1993 — 61 pp. — 17.6 x 25.0 cm

ISBN 92-826-5083-9

Price (excluding VAT) in Luxembourg: ECU 8

The purpose of this publication is to highlight the role of the European Community in the field of human rights. European unification is more than just setting up a single market: it has the additional goals of promoting peace, freedom, respect for one's fellows and social justice — ideals that are shared by all the Member States.