

EUROPEAN PARLIAMENT

Proceedings of the Round Table on 'Special rights and a charter of the rights of the citizens of the European Community' and related documents

(Florence, 26 to 28 October 1978)

Selected Documents

**Foreword by
Emilio Colombo**

President
of the European Parliament

**Introduction by
John P. S. Taylor**

Director-General

Secretariat

Directorate-General
for Research and Documentation



September 1979

EUROPEAN PARLIAMENT

PROCEEDINGS

of the

Round Table

on

Special rights and a charter of the
rights of the citizens of the
European Community
and related documents

Florence

26 to 28 October 1978

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FOREWORD

The granting of special rights and the establishment of a European Community civil rights charter, which was the theme of the Round Table organized by the European Parliament in Florence, are closely linked to the implementation of the Community treaties and their further development to promote greater solidarity between the peoples of the Member States and to create a Community consciousness.

The Community cannot and should not be merely a matter of inter-State cooperation or be limited to a simple customs union plus a few common policies. It should be based on a solid democratic and popular foundation which will enable it to respond more effectively to the aspirations of its people towards a higher level of social, civil and human progress in accordance with the objectives laid down in the preamble of the Treaty of Rome by its Founding Fathers.

On the eve of the direct election of the Members of the European Parliament a historic event which will establish a Europe of the people alongside the Europe of the Member States, the Community must be seen by all as a free, democratic union founded on common consent and capable of mobilizing the will and enthusiasm of its people.

In short, a Community of and for the citizens which everyone can recognize as his own and in whose further development he feels it a personal duty to take part.

The European Parliament has repeatedly called for the bold decisions that are needed for the citizens of the Community and pointed the way to the practical realization of European political union.

The European Parliament's primary concern in organizing the Round Table was to make public opinion aware of the delays and hesitations which are thwarting the grand design of Community solidarity and democracy and, above all, to persuade the responsible authorities to expedite their efforts to achieve this goal.

I am convinced that the results of the Round Table will encourage discussion and action at Community and national levels. As the embodiment and expression of the will of the people, both the present and the directly-elected European Parliament will spare no effort to remove in what I hope will be the not-too-distant future the discriminations and the disparities which are still to be found in the treatment of European citizens, thus giving our Community new and more effective forms of equality, social justice and freedom.

Emilio COLOMBO

*President of
the European Parliament*

INTRODUCTION

By John P. S. Taylor
Director-General of Research and Documentation
of the European Parliament

Protection of fundamental human rights and the recognition of equal civil and political rights for the citizens of the Member States of the Community are two subjects on which the European Parliament's attention is focused. Tangible proof of this is afforded by the Round Table on special rights and the European Community's civil rights charter organized by the European Parliament at the European University Institution in Florence.

The Directorate-General for Research and Documentation of the European Parliament, which played a major role in the organization and conduct of the Round Table, is happy to publish this collection of its most important acts and documents. It hopes thus to make a useful contribution to the action which the European Parliament has initiated and will further pursue with the aim of guaranteeing to all citizens of the Community full equality of rights and greater participation in the Community's decision-making process.

PROGRAMME

European University Institute
Badia Fiesolana
San Domenico di Fiesole
Via dei Roccettini

SPECIAL RIGHTS AND CHARTER OF CIVIL RIGHTS OF THE EUROPEAN COMMUNITY

ROUND TABLE

Florence
26 to 28 October 1978

Agenda

Thursday, 26 October 1978

- 3 p.m. Opening of Round Table
 under the chairmanship of Mr Mario Scelba
- Speeches of welcome by
- Mr Kohnstamm,
 President of the European Institute
- Mr E. Colombo,
 President of the European Parliament
- Introduction by Mr Scelba, rapporteur for the Political Affairs Committee
 of the European Parliament

Introduction by Mr Bayerl, rapporteur for the Legal Affairs Committee of the European Parliament

Possibly statements by:

- a) the Council of Ministers
- b) the Commission
- c) the Court of Justice of the European Communities

Friday, 27 October 1978

- 9.30 a.m. General debate
- 1 p.m. Lunch and press conference
- 3.30 p.m. Continuation of debate

Saturday, 28 October 1978

- 9.30 a.m. Continuation of debate
 Speeches by Mr Bayerl and by the chairman Mr Scelba
- 12.30 p.m. End of Round Table

LIST OF PARTICIPANTS

European Parliament

Mr Emilio COLOMBO, President of the European Parliament
Mr Mario SCELBA, chairman of the Round Table and rapporteur for the Political Affairs Committee
Mr Alfons BAYERL, rapporteur for the Legal Affairs Committee
Mr Ruairí BRUGHA, Member of the European Parliament
Mr Rudolf LUSTER, Member of the European Parliament
Mr Aldo MASULLO, Member of the European Parliament
Mr Hellmut SIEGLERSCHMIDT, Member of the European Parliament

Local Authorities

Mr Davis OTTATI, representing the Mayor of Florence

European University Institute

Mr Max KOHNSTAMM, President of the European University Institute

Institutions of the European Communities

Council of Ministers

Mr Klaus von DOHNANYI, President-in-Office of the Council
Mr Kai BAHLMANN, Head of Division, Federal Ministry of Justice
Mr Giacinto de THOMASIS, Director-General at the Council
Mr Martin SEIDEL, Head of Section, Federal Ministry of Economic Affairs
Mr Antonio SACCHETTINI, legal adviser
Mr Yves QUINTIN, Principal administrator, institutional affairs
Mr SCHMIDT, Embassy councillor

Commission

Mr Etienne DAVIGNON, Member of the Commission
Mr Claus-Dieter EHLERMANN, Director-General of the Legal Service

Mr Ivo SCHWARTZ, Director
Mr Paul LELEUX, legal adviser
Mr Peter KARPENSTEIN, Legal Service

Parliaments of the Member States

Germany

Bundestag

Mr Eduard LINTNER
Mr Friedrich Wilhelm HÖLSTER

Belgium

Senate

Mr Willy CALEWAERT
Mr Marcel STORME

France

Senate

Mr Léon JOZEAU-MARIGNÉ

Ireland

Seanad

Mr Bernard McGLINCHEY

Dail

Mr Pierce BUTLER
Mr Jim O'KEEFE
Mr Ciaran MURPHY

Italy

Senate

Mrs Tullia CARETTONI ROMAGNOLI
Mr Guido GONELLA
Mr Umberto CARDIA

Luxembourg

Chamber of Deputies

Mrs Marthe THYES-WALCH
Mr Jean WOLTER

The Netherlands

Eerste Kamer

Mr J. F. G. SCHLINGEMANN

Tweede Kamer

Mr C. Th. A. VAN WATERSCHOOT
Mrs V. N. M. KORTE-VAN HEMEL
Mr H. ROETHOF

Council of Europe

Parliamentary Assembly

Mr William CRAIG, MP
Mr Guido DEMARCO
Mr Auguste PLATE, secretary of the Legal
Affairs Committee

Secretariat

Mr H. GOLSONG, Director

Professors

Name:

Mr Antonio CASSESE
Mr Luigi CONDORELLI
Mr Giogio GAJA
Mr Jacques GEORGEL
Mr Klaus HOPT
Mr John MITCHELL
Mr Christoph SASSE
Mr Henri SCHERMERS

University:

University of Florence
Faculty of Political Science
University of Florence
Institute of Public Law
University of Florence
Institute of Public Law
European University Institute,
Department of Political and Social Sciences
European University Institute,
Department of Law
University of Edinburgh
The Centre of European Governmental
Studies, Old College, Southbridge
University of Hamburg
Faculty of Law I; Department of
Community Law
Europa-Institut
Amsterdam

Observers

Mr CALIA
Mr GENTON
Mr MESSINA
Dr Christel OFFERMANN-CLAS
Mr PUCCIO
Mr SICA
Mr TRNKA

Ministry for Foreign Affairs, Italy
Senate, France
Chamber of Deputies, Italy
University of Trier, assistant lecturer in
science
Ministry for Foreign Affairs, Italy
Ministry for Foreign Affairs, Italy
National Assembly, France

Organization Committee

Round Table Secretariat

Mr John TAYLOR
Director-General of Research and
Documentation
Mr Klaus POHLE
Director in the Directorate-General for
Research and Documentation
Mr Enrico BOARETTO
Political Affairs Committee secretariat
Mr Saverio BAVIERA
Legal Affairs Committee secretariat
Mr Dietmar NICKEL
former assistant lecturer at the European
University Institute of Florence

Office of the President of the European Parliament
Mr Paolo BALBIANI

Relations with national parliaments
Mr Gérard KIEFFER

Information and public relations
Mr Marcello DELL'OMODARME
Mrs Anna GUGLIELMI

Minutes
Mr Alfredo di STEFANO
Mr Gérard KIEFFER
Mrs Monique LUX
Mr Emilio WILLE

Conferences Division
Mrs Luciana AMORETTI

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THURSDAY, 26 OCTOBER

(The meeting was opened at 3.20 p.m. by Mr Scelba, chairman of the Round Table)

Mr Kohnstamm, Principal of the European University Institute, warmly welcomed the participants and expressed his best wishes for the success of this Round Table on such an important and topical subject.

He then briefly outlined the work of the Institute, a living example of a citizens' Europe which had been created because the governments had believed that something more than economic union was required.

The Institute's origins went back to the 1955 Messina Conference; after many years of discussion, the Convention was signed here in Florence in 1972, and the Institute has opened its doors to the first researchers two years previously. All of them — some 125 — were graduates who could work for a Ph.D. in their own universities but the Institute was entitled to award a doctorate directly. The Institute was organized in four departments (history and civilization, economics, law and political sciences) and the teaching staff numbered about twenty. The Institute carried out research into those problems of modern society relating to interdependence and community life and tried to find solutions which would increase mutual understanding. Two seminars had recently been held on fundamental rights and on the preparation of a uniform electoral system for the election of the European Parliament. Professor Georgel, Professor Hand and Professor Sasse, all present at this Round Table, had taken part.

Mr Kohnstamm went on to emphasize the importance of contacts with national parliaments, for the Institute wished to be open to the outside world. The Institute was an inter-governmental institution, but the national parliaments controlled it through their budgets.

Among the matters on which the Institute was calling for the support of the European Parliament and national parliaments Mr Kohnstamm mentioned:

- (i) the mutual recognition of diplomas, which implied giving a Community-wide dimension to the universities;
- (ii) the mobility of teaching staff throughout the Community in order to create a true intellectual community (the teaching staff at the Institute were mainly lecturers with 2 to 3-year contracts);
- (iii) career openings for researchers, which formed part of the more general problem of unemployment among young people and graduates.

He then referred to Article 19 of the Convention setting up a European University Institute which laid down that once Community expenditure was financed from own resources, consideration would be given to the financing of the Institute from the Community budget. On this point he asked for the support of the European Parliament.

Mr Kohnstamm then thanked the European Parliament for having increased the appropriations entered in the budget to further the Institute's work. It was true that the budgetary procedure had not yet been concluded, and Mr Kohnstamm also asked for the European Parliament's support here.

He concluded his introduction by declaring that by a happy coincidence the Italian Senate had that very day adopted a law which would ensure the completion of the maintenance work and repairs to the buildings placed at the disposal of the Institute by the Italian Government.

Mr Scelba then called on Mr Colombo, President of the European Parliament, thanking him for his participation at the Round Table.

Mr Colombo thanked the chairman for inviting him to the Round Table. He also thanked Mr Kohnstamm for his kind words about the European Parliament and emphasized that the European Parliament was highly sensitive to the work and needs of the European University Institute in Florence.

He then drew attention to the consistent and effective work done by Mr Scelba within the European Parliament in the sphere of the special rights to be granted to Community citizens.

He also thanked the rapporteur for the European Parliament's Legal Affairs Committee, Mr Bayerl, and all the other participants for their contribution to the success of the Round Table.

Mr Colombo recalled the provisions of Articles 2 and 3 of the EEC Treaty on which the protection of the rights of Community citizens was based.

According to some people, these provisions placed those rights which were not directly or indirectly linked to economic activities outside the Community's terms of reference, and consequently the Community could not protect them.

Twenty years after the signature of the Rome Treaties, this restrictive view of the nature and powers of the Community still found some eminent supporters. That is why the European Parliament had wanted to organize this meeting with the help of the European University Institute.

The road to European political union was still long and arduous. Numerous obstacles had to be overcome, and this required both patience and determination as well as tangible action.

To discuss Community protection of fundamental rights was to reaffirm a profound and unshakeable belief in those rights.

The task of building the Community could not be completed nor could its future be shaped without the participation of the peoples of which it was formed.

The Community we were aiming for was an ever closer union of free peoples who believed in the principle of pluralist democracy.

This Community, a factor for peace and stability in its relations with the outside world, must ensure internal social and economic progress through repeated practical examples of solidarity. We must attain a Community *'of the citizens for the citizens'* without, however, challenging the identity and fundamental role of the Member States.

The European Parliament, recognizing the will of the peoples to see concrete and tangible examples of this solidarity had, in a report drawn up by Mr Scelba, submitted specific requests and proposals which the Round Table was called upon to consider.

It was important:

- (a) on the one hand to guarantee at Community level the protection of the civil and political rights of Community citizens, a requirement that had to be met before Community citizenship could be made a reality;
- (b) on the other to grant to the citizens of the Member States a package of political and civil rights based on the fact that they were at the same time citizens of a single Community.

The Community was neither a federation nor a confederation, but it was much more than a union of States or a free-trade area. The Community was created as an economic organization, but its founders had made it clear that their objective was to make it into a political organization with autonomous and independent powers of decision, implementation and jurisdiction.

The concept of a restrictive interpretation of the Community's powers and attempts to limit the Community's activities solely to the economic sector could not in practice be applied in everyday life. The Community was now playing a major role in international trade. The Lomé Convention concluded with 54 African, Caribbean and Pacific States, the Association Agreements with the Mediterranean countries, and the Commercial Agreements with the United States, Japan, Canada, India and some Latin-American countries demonstrated the need for a political organization which was capable of responding to the hopes of the Community itself and of the whole world.

In this context, the concept of *'special rights'* to be granted to the citizens of the Member States could not exclude *fundamental rights*. Moreover, the European Court of Justice had solemnly affirmed that fundamental rights were an integral part of the general rules of law of which it was the guarantor.

The 'Joint Declaration' signed last year by the Parliament, Council and Commission, in which the Community institutions confirmed their resolve to respect fundamental rights now left no further room for doubt: the Community could and must intervene to confirm and protect the fundamental rights of the citizens living in the Community.

Fundamental rights were written into the Constitutions of all the Member States of the Community; they were laid down in the Preambles to the Treaties, and all the Member States

had signed the international agreements which guaranteed their recognition. Consequently the Community was based on the recognition of and respect for these rights.

The European Parliament had always attached the greatest importance to the protection of human rights.

Any violation of these rights was tantamount to challenging the very foundations of the Community. It was also clear that the Community could not remain indifferent or unresponsive should these rights be violated in third countries, and in particular in those countries linked to the Community by agreements.

The Community must not set itself up in competition with the Member States of which it consisted, nor could the political union of the peoples of the Community be brought about by denying the values and traditions of European pluralism. In other words, protection afforded by the Community did not supersede but supplemented that of the Member States.

The essential task of the Parliament directly elected by all the Community citizens would be to step up progress towards European Union. It would be a mistake to believe that this would be an easy process.

Next year's direct elections would therefore not mark the end of a process but the beginning of a new phase in the efforts to turn a commercial Community into a citizen's Community which respected and guaranteed the rights due to every citizen in a political system based on freedom and social justice.

Mr Ottati, representing the Mayor of Florence, welcomed all the participants. He thanked the European Parliament for having chosen his city and emphasized that Florence was eminently suited to host this Round Table in view of the role it had always played in the advance of European civilization.

In fact, during the course of history, European civilization had brought individual rights to the various Member States. It was now social rights which could and must become the fundamental rule of the European Community.

The City of Florence hoped that this would be achieved for the sake of the Community's future. In his report on European Union Mr Tindemans had written that society was looking forward to the changes which would lead to a union of the peoples.

He was convinced that the Community would attain political autonomy by overcoming all the obstacles of which the most serious at present was unemployment. In this context, Mr Ottati recalled the work of the late Mr Giorgio La Pira, former Mayor of Florence, in the 1950s and his creative ideas on the union of the peoples of Europe.

Mr Scelba then submitted his report on special rights and a European Community civil rights charter.

He recalled that his involvement with civil and political rights for Community citizens went back to the Conference of Heads of State or Government of the nine Member States of the European Community held in Paris on 9 and 10 December 1974.

The Commission of the European Communities had subsequently defined the special rights to be granted in each Member State to the citizens of the other Member States essentially as being the right to vote and the right to stand for and be elected to public office.

In response to a request from the Political Affairs Committee, on 12 January 1976, the European Parliament authorized the committee to draw up a report on the subject and asked the Legal Affairs Committee to deliver an opinion. Subsequently, Mr Scelba was appointed rapporteur for the Political Affairs Committee and Mr Bayerl the draftsman of an opinion for the Legal Affairs Committee.

Mr Scelba recalled the main points in Mr Tindemans' report on European Union which were relevant to the matter under discussion and then summarized the documents published by the European Parliament on special rights and the study drawn up by the Commission entitled 'towards a citizens' Europe'. He also mentioned in this context the 'declaration on democracy in the Community' of 8 June 1978 issued at the conclusion of the meeting of the European Council held in Copenhagen on 7 and 8 April 1978.

He then summarized the contents of the resolution adopted by the European Parliament on 16 November 1977, in which that institution set out as the foremost of the rights to be granted to Community citizens: equality in the field of civil and political rights, backed by Community protection.

The European Parliament considered that priority should be given to the equality of Community citizens in the field of civil and political rights and instructed the Commission to press for an agreement between the Member States under the terms of which the European Convention on Human Rights, the UN International Covenant on Civil and Political Rights and the rights provided for in the various constitutions would be considered as integral parts of the Treaties establishing the Communities.

Although existing international treaties guaranteed some measure of protection of fundamental rights, Community protection was much more effective because under the Treaties the protection of these rights was vested in supranational institutions. These Community institutions could and must take official action against any measure on the part of Member States in breach of the Treaties, and their decisions were binding.

The implementation of the European Parliament's resolution raised certain problems, the first being how to define which civil and political rights should be made Community rights because of the disparities in their definition.

However, the resolution did not propose that all rights should be elevated to the status of Community rights, only those which might otherwise create inequality between Community citizens. In practice, it was for the Court of Justice to define the scope of these rights. This was a task which the Court of Justice was already carrying out.

A second problem arose from the differences between constitutional rules which, although reflecting a common heritage, showed differences in interpretation, partly because of the disparities of the political backgrounds.

However, these differences were only slight and had not prevented the Member States from being members of a Community nor from seeking to transform this Community into a political Community which implied equality between Community citizens. The European Parliament considered that the special rights must include first and foremost Community protection of civil and political rights.

In their 'joint declaration' of 5 April 1977, the three Community institutions stressed the importance of fundamental rights in dealing with potentially controversial situations and declared that they respected them in the exercise of their powers. The likelihood of the institutions violating fundamental rights was remote; on the other hand, violations by individual Member States were much more likely and could have the effect of creating disparities between the Member States. This possibility was also noted by the Heads of State or Government of the Member States who confirmed in their 'declaration on democracy' that respect for human rights in each Member State constituted an essential element of membership of the European Communities.

The European Parliament had always considered that its role was to encourage this equality of treatment, and its resolution of 16 November 1977 was designed to contribute to the definition of the rights of Community citizens by submitting practical proposals which were attainable in the context of special rights.

The second part of the resolution called on the Commission to submit proposals to the Council that citizens of the Community should be granted certain political and civil rights otherwise restricted to national citizens. These rights were set out in the Tindemans Report. The proposals made by the European Parliament concerned the right to submit petitions, the right to stand for and vote at elections and the right to hold public office.

This equality of citizens in the matter of civil and political rights must be implemented gradually, and the European Parliament was perfectly aware of the political and legal difficulties involved.

For an example of possible legal difficulties we need only mention citizenship. The existence of these difficulties had not prevented the principle of equality being applied in the economic sector. However, there would be no European Union without equal treatment of citizens in each Member State.

The development of the Community integration process and the granting of special rights to Community citizens even before a constitution had been drawn up made the civil rights charter a very topical subject.

The question had been raised of finding a legal basis under Articles 235 and 236. The resolution referred to those two articles. Recourse to Article 235 could be justified by reference to the evolution of the Community. However, it could not be applied in every case and that was why it would also be necessary to use Article 236. If the Member States had

sufficient political will to make real progress they could draw up a framework convention consisting of two articles and laying down firstly that constitutional provisions and international agreements would form part of Community law; secondly, by adopting ordinary legislation the Member States could grant equal status to the nationals of Community countries in all sectors, including civil and political rights.

In this way the European Parliament had tried to play its part in persuading public opinion that the Community should be more than an economic organization. Its resolution was a direct message to the citizens of the Community, particularly the younger generation, who in a few months would be voting in the direct elections. This was a unique event in the history of the peoples of Europe.

Mr Scelba then called on Mr Bayerl, rapporteur for the European Parliament's Legal Affairs Committee to comment on his report.

Mr Bayerl emphasized that Mr Scelba's analysis was the starting point for the work of this Round Table. The present situation of a citizen of the Common Market had to be transformed through special rights into the status of citizen of the European Community in the broadest sense of the term. It was true that the Commission's report on special rights and Mr Tindemans' report on European Union were declarations of principle without any binding legal force and that the same was true of the European Parliament's resolution on special rights and of the 'joint declaration' made by the Council, the European Parliament and the Commission on the respect of fundamental rights.

Nevertheless, these acts (reports, resolutions and declarations) committed the institutions which had signed them. The politicians' task was now to derive from them the impetus needed to create the political and legal base for the granting of special rights to Community citizens.

The European Parliament had therefore assumed responsibility for drawing up a 'European Community civil rights charter' which would form the basis for the future constitution of the European Community and also the European Union.

In so doing, the European Parliament would find its own legitimation in the eyes of the Community's citizens for no-one had ever denied the close connection between the democratization of the European Community, the establishment of political union and the definition of the legal position of Community citizens.

It was important to guarantee the legal status of the citizen as part of the process leading up to European Union, thereby establishing a direct relationship between the individual and the Community.

The speaker emphasized that the charter should go further than what the concept of 'special rights' at present implied. The aim should be to pave the way for the establishment of a close relationship between the specific political objectives of the European Community and the need

for the legal protection of its citizens. It was important to guarantee rights to freedom, especially the rights threatened by new technological developments (for example in the data processing sector), and the social and civil rights which might be adversely affected by the process of further integration.

In this context Mr Bayerl wondered whether the drawing up of a catalogue of fundamental rights was the best path to follow. In his opinion, a catalogue of fundamental rights would play a 'unifying role' in the Community.

However, although the Court of Justice of the European Communities had begun in 1969 to take over responsibility for the protection of fundamental rights, it could not supplant the Community legislative authority whose task it was to establish the political framework for the further development of Community law. Consequently, the establishment of a European Community civil rights charter was appropriate because it would help to decide in favour of the citizen the lengthy dispute on the legitimacy of Community acts.

Mr Bayerl next discussed the disparities existing between the legislations of the Member States in the sector of fundamental rights. In the period immediately prior to direct elections to the European Parliament, the establishment of a binding political and legal framework for fundamental rights deserved even closer consideration. The citizen must be guaranteed that as European integration developed, his sphere of freedom would be enlarged and that he could count on the effective protection of his own rights.

Mr Bayerl understood those who feared that the drawing up of a catalogue of fundamental rights might hold up the establishment of a 'Community charter'. He agreed with Mr Scelba on the difficulties of drawing up such a catalogue. However, this should not prevent the European Parliament from doing its duty and starting work on as comprehensive as possible a catalogue of the rights to be protected.

This long-term objective did not mean that we should not go ahead and grant special rights at an early juncture.

This Round Table should lay the foundations for a Community charter which would make people realize that alongside the industrial, commercial and agricultural Community, a Community was developing which could protect his rights *vis-à-vis* the national authorities and Community institutions.

Viscount Davignon Member of the Commission of the European Communities, thought it would be worthwhile to take stock of what the Community had done for its citizens, to establish what had already been accomplished and to spell out what remained to be achieved.

Community citizens enjoyed certain rights, and it could be said that the status of 'Community citizen' had been officially recognized from the moment when the Treaties granted rights to individuals and the opportunity of enforcing them by recourse to a national or Community court.

He quoted Articles 173 and 177 as well as Articles 178 and 215 of the EEC Treaty, and wondered how many Community citizens were aware that they had rights under these articles.

The rights granted to Community citizens were in fact more substantial than those deriving from the provisions of the Treaties relating to the free movement of persons, services, goods and capital. For example, the free movement of workers comprised a package of rights which were closely connected with freedom of movement, such as the right of migrant workers' children not to suffer discrimination in education in comparison with children of the host country. There was, therefore, an extension of the scope of the Treaty provisions which could not be denied.

Moreover, health, social security and living conditions had begun to find a more stable place in the Community legal context. These rights existed, not because of a declaration similar to those issued in Federal States but by virtue of the results of the common policies of the Member States of the Community. Consequently, the European Parliament should support the Commission's initiatives which aimed to consolidate and develop these common policies.

As for the future, it was important to ascertain whether there was fundamental agreement in the Community to protect human rights in accordance with the Preamble to the EEC Treaty. If these rights were to be safeguarded, the constantly threatened concept of pluralistic democracy would have to be upheld.

He wondered what could be done to widen the scope for redress should fundamental rights be violated by the Member States or by the Community. The traditional freedoms (freedom of association, etc.) were protected by the Court through its case law. Social and economic rights were protected by the Treaty itself. It was now important to decide whether we could go one stage further.

Viscount Davignon recalled that in the past the Commission had not considered it advisable for the Community to accede to the European Convention on Human Rights. On the other hand, it was clearly stated in the European Parliament's resolution that this Convention, together with other international agreements, should become a basic element of Community law.

Speaking personally, he said he could not deny that this might constitute a very important step and one which should therefore be taken. If the Community agreed to become part of a larger system in this sector, that would be a very clear indication of its intentions and purposes. There were, of course, numerous technical and above all, legal obstacles given that the Convention had been negotiated and concluded by nation States and that no provision had been made for the accession of a supranational organization as distinct from a nation State.

Nevertheless, this would be a positive gesture and would enable us to assess the extent of the desire to protect fundamental rights. From this angle, the Round Table would no longer be a forum for theorizing but one where initial steps could be taken to overcome the difficulties involved.

Viscount Davignon then emphasized the need to publicize what the Community had achieved in the protection of human rights. More had been done than was generally believed.

Publicity was important, but the task should not be left solely to the Commission. As part of the information campaign for direct elections to the European Parliament, Parliament should seize this opportunity to give greater publicity to the rights which the Community had granted to individuals.

As regards the 'catalogue of rights', he thought that this would follow automatically from the Community's accession to the European Convention on Human Rights. At all events, it was a matter for the sovereign decision of the European Parliament. The Commission did not intend to deliver an opinion on a matter which fell within the Parliament's terms of reference.

The Commission was ready to cooperate with the European Parliament in working towards European Union and the granting of rights to Community citizens. Despite all the legal difficulties and all the political issues which occasionally divided the two institutions, the Commission would play its part in defining the status of Community citizens.

Mr Scelba thanked Viscount Davignon for his statement on Community achievements and future prospects.

The meeting adjourned at 6.15 p.m.

FRIDAY, 27 OCTOBER

The meeting resumed at 9.45 a.m.

Mr Scelba welcomed Mr Von Dohnanyi, President-in-Office of the Council of the European Communities.

Mr Von Dohnanyi recalled that until the end of the last century, Europeans could travel freely and without any formalities whatsoever from one country to another. This had enabled Europe to reap a rich cultural harvest since artists, scientists and intellectuals could work freely in countries other than their own.

Paradoxically, as means of communication had improved, so the European nations had introduced a whole range of controls either at their external frontiers or within their territory. Nationalism was without doubt at the root of this change.

Today, citizens of the Member States of the Community could travel freely within that Community. In this respect, therefore, some progress had been made.

He then recalled the mandate given to the Community institutions by the 1974 Summit Conference to grant certain special rights to the citizens of the Member States of the Community. To this end, an *ad hoc* Working Party had been set up within the Council and this Working Party was at present studying the various problems arising directly and indirectly from special rights, especially the right to stand and vote at elections, freedom of expression and association, the right of residence and the right to submit petitions.

As for the protection of fundamental freedoms, it was worthwhile stressing the importance of the joint declaration made by the Council, Commission and European Parliament in April 1977.

The Commission was intending to submit to the Council a proposal relating to the granting of special rights which would take account of the conclusions to which this Round Table came. For its part, the Council would not hesitate to take the most positive action possible on this proposal. But it was clear that the granting of certain rights would be a lengthy business because they posed a number of legal, political and social problems.

One example was the right to vote at municipal elections, which implied a modification of the constitution in certain countries.

It further implied the right of association, to meet and organize demonstrations. There was also good reason to consider the possibility of extending the right to stand and vote at municipal elections to nationals of third countries. Finally, the problem of nationals of one Member State residing in another Member State and who were without means of subsistence had to be solved. It was, of course, important that the objective of the granting of special rights

should be achieved but a gradual approach was necessary, starting with those rights which posed the least problems.

The direct elections to the European Parliament would certainly provide fresh impetus in this sphere since the act of voting would give Community citizens a sense of closer involvement with the Community. The Council for its part would certainly play a positive role.

Mr Scelba thanked the President-in-Office of the Council for his most interesting speech and especially for the information which he had provided on the work of the Council's *ad hoc* Working Party on Special Rights. We should find our way back to the path from which nationalism had taken us. The European Parliament would no doubt be equal to the task facing it. The European Parliament, too, was convinced that progress must be gradual.

Mr Sieglerschmidt, Member of the European Parliament, thought it was legally impossible to expel from the Community any country which would not apply a Community catalogue of fundamental rights. However, the Community would always have the possibility of applying sanctions to those countries.

Viscount Davignon had spoken about the possibility of the Community's accession to the Council of Europe's Convention on the Protection of Fundamental Rights. Mr Sieglerschmidt felt that this idea should be followed up, even if it did involve some difficulties. In this context the accent should be put on political rights.

Furthermore, a distinction should be drawn between subjective rights and rights deriving from citizenship of a particular country. At present there was a gap between the Community and the other member countries of the Council of Europe. It was important not to widen but rather to close this gap.

Fundamental rights were already protected by UN agreements, by the Council of Europe's Convention and by national laws. In these circumstances it did not appear desirable to provide for other forms of protection.

In the short-term, thought could be given to improving the free movement of persons and access to education.

As for participation in municipal elections, this could be extended to nationals of third countries. On the other hand, participation in general elections should be reserved to Community citizens.

Mr De Marco, Member of the Parliamentary Assembly of the Council of Europe, stressed that a distinction should be made between rights deriving from citizenship of the Community

and fundamental rights. Social rights and the free movement of persons belonged to the first category, and could be codified.

On the other hand, codification was unnecessary for fundamental rights since they were already listed in the UN agreements, in the Council of Europe's Convention and in national constitutions. Any conflict of legislation could be avoided if the fundamental rights to be granted to every Community citizen were included in the Council of Europe's Convention.

At the most recent meeting of the Parliamentary Assembly of the Council of Europe it had been proposed that economic and social rights should be added to the European Convention. The difficulties could only increase if progress was sought through other channels.

In conclusion, fundamental rights should be protected by the Council of Europe's Convention. Special rights, on the other hand, could be granted and safeguarded at Community level.

Mr Jozeau-Marigné, chairman of the Legislative Committee of the French Senate and former vice-chairman of the European Parliament's Legal Affairs Committee, stressed the spirit of cooperation and mutual comprehension which had always inspired the work of the European Parliament. He paid tribute to Mr Scelba's unremitting efforts in the field of human rights and thanked the Principal of the European University Institute of Florence for the hospitality offered to this Round Table. He then thanked the Commission for cooperating so effectively with the European Parliament.

Now it was time to think of the future. In the past, the European Parliament had always acted within the limits of its powers and in direct contact with the national parliaments, thanks to the dual mandate of its members. In future this contact would have to be maintained. One of the directly-elected European Parliament's principal tasks would be the safeguarding of fundamental rights. The distinction between fundamental rights and special rights had caused certain difficulties. In this respect, the Community's status in international public law would certainly be of fundamental importance.

At the Community level, the safeguarding of fundamental rights by the Court of Justice of the European Communities had developed in three stages.

As a result of the 1974 Summit Conference, the proper course now was to consider the granting of special rights and the protection of fundamental rights at Community level as separate matters.

With regard to the protection of fundamental rights at Community level, Mr Jozeau-Marigné recalled the joint declaration made by Parliament, the Council and the Commission.

The main concern for the future was that the discussion should be continued. There were three difficulties: possible conflicts between the Court of Justice of the European Communities and the Court of Human Rights, the reservations which certain countries had made when they

ratified international agreements, and the nature and content of a future Community charter of fundamental rights.

As for special rights, should a complete list be drawn up? To what extent should social rights be extended? How would it be possible to guarantee the equality of all citizens.

Furthermore, it would not be easy to find a definition of fundamental rights. Should a catalogue be drawn up? Would it be necessary to include in it certain rights such as the right to participate in the management of undertakings?

These were problems which should be considered and to which answers must be found.

Mr Sica, member of the Working Party on Special Rights set up by the Council of Ministers of the European Communities, said that he was giving a purely personal point of view based on his experience as the first chairman of the Council's *ad hoc* Working Party and as a member of the Italian delegation.

He recalled that the concept of special rights stemmed from an Italian proposal put forward at the 1974 Paris Summit Conference; he mentioned one terminological difficulty: the term 'Community citizenship' had not been accepted at that time and he felt that the words 'special rights' suggested privileges; he therefore preferred the term 'political rights'. The directives given by the Summit were significant in that emphasis was placed on the civil and political aspects of these rights as they applied to nationals of Member States who were subject to Community regulations. The three institutions could and must call on the European Council to accept the full political consequences of the 1974 Summit.

As for the link to be established with what the Community had already achieved, if they were equivalent to national rights, special rights already existed and ran parallel to the provisions of the Treaty of Rome relating to the free movement of persons, goods and capital. For a long time insufficient attention had been paid to overall employment policy within the Community and it was clear that the movement of persons involved nationals of third countries more than it did nationals of the Member States.

Mr Sica referred to the judgments handed down by the Court of Justice on the right of residence and social benefits for migrant workers as well as the right to vote and to join a trade union.

He felt that special rights were the icing on the Community cake, a view which he believed was supported by the fact that:

- (i) in 1974 the Commission had proposed that the right to vote in municipal elections should be given to migrant workers, and
- (ii) the European Parliament and the Economic and Social Committee, in delivering their opinion on this proposal, had drawn particular attention to the position of nationals of the Member States of the Community.

He then went on to give a progress report of the work within the Council, referring to the statements made by Mr Von Dohnanyi. Mr Sica thought that the Council's approach was more hesitant than Parliament's. He was surprised that when Viscount Davignon had spoken the previous day he had not mentioned the study made by the Commission on a list of special rights.

Returning to the subject of the right to vote in municipal elections, Mr Sica tried to counter three objections:

- (a) The constitutional objection could be overcome by political will, which would sweep away all procedural obstacles;
- (b) any possible disturbance of the local political balance could be reduced if the right to vote was only granted after ten years' residence in the locality, this period to be progressively reduced;
- (c) the inequality felt by workers from third countries should not be exaggerated, since some immigrants from countries with very different cultures were not used to expressing their opinions through the ballot box, and, furthermore, there was nothing to prevent the future extension of these rights as had already been done in the case of the right to join a trade union.

Mr Mitchell, Professor at Edinburgh University, thought that priority should be given to ensuring that every citizen of the Community could vote in the direct elections to the European Parliament. The Council could exert pressure to overcome the difficulties existing here in certain Member States.

In contrast to earlier speakers, Professor Mitchell doubted whether the European Community as such could accede to the Convention on Human Rights: since the Court of Justice had already made the necessary allowances in its jurisprudence, the Community's formal accession was unnecessary. However, there were differences of interpretation between the European Court of Human Rights and the European Court of Justice. These differences arose from the fact that the rights on which these two Courts passed judgment were closely linked to the political society in which they applied.

As for the 'catalogue' of fundamental rights, Professor Mitchell was not sure whether the Community should draw up a list of this nature: firstly, because there was a problem in drafting this catalogue, which meant that the result might be less liberal than some of those taking part in the Round Table would have wished. This was the same sort of doubt that might be felt by those who were involved in drafting the 14th Amendment to the American Constitution on religion, colour and race. Finally, history showed that the fundamental rights enshrined in every constitution were based on the needs of the times and reflected the past experience of each particular country.

The suggestion made by Mr Warner, Advocate-General of the European Court of Justice, to take over everything that was written into the constitutions of the Member States had finally not been followed by the Court of Justice.

On the other hand, given that the drafting up of a 'catalogue' of this kind would be a lengthy undertaking, the Court would be required to spell out its own concept of fundamental rights.

Professor Mitchell concluded by saying that his doubts should be construed simply as an academic attitude designed to draw attention to one aspect of the problems under discussion.

Mr Gonella, representing the Italian Senate, emphasized that it would be unrealistic to draw up a new Bill of Rights since there were already several very fine Charters in existence (UN, Council of Europe). It would be sufficient to incorporate special rights in existing charters, but this would be worthless unless provision was made for proper legal backing.

He considered that the problem of non-intervention was one of the most critical and, referring to the Universal Declaration of Human Rights, considered that it was not sufficient to proclaim certain rights: the crucial point was to ensure that they were enforced.

Intervention could be confined to a solemn appeal or to pressure without any element of compulsion. It was important not to interfere in the internal affairs of other countries.

Within the Community, any violation of Community regulations should be challenged, for the Member States had voluntarily relinquished part of their sovereignty.

In conclusion, the rights must be genuine and not simply a sham.

Mr Golsong, Director in the Council of Europe's Secretariat, said that he did not wish to discuss the drafting of special rights for Community citizens since he agreed with most of what Professor Mitchell had said, but he did want to express his personal views on the document submitted by Mr Bayerl to the Round Table.

Accession by the Community to the European Convention posed problems which he had already outlined on other occasions. He would submit to the Round Table Secretariat a written paper summarizing the most important points raised by the accession of the European Community to the Convention on Human Rights.

Mr Golsong made several observations on this matter:

- Accession to the European Convention would confer a kind of legitimacy on the Community, and this would be consolidated by the direct elections to the European Parliament;
- the granting of political rights was still the major objective;
- it was desirable to establish a link between the Nine and the other democracies in Western Europe;

- the European Convention had certainly led to some harmonization between the legal systems of the States signatory to the Convention;
- uncertainty as to the actual position as regards fundamental rights would be removed more effectively than by reference to the jurisprudence of the European Court of Justice;
- a flexible interpretation of fundamental rights would take account of local conditions;
- there would, of course, be problems of jurisprudence within the Community, but conversely the material rights of the Convention would be transferred from Strasbourg to Luxembourg;
- the accession of the Community to the European Convention on Human Rights would not restrict the opportunities for the European Court of Justice to refer to other appropriate texts;
- new powers would not be created for the Community, and this would forestall any difficulty with the national parliaments;
- the fiction that the Community would become subordinate to the Council of Europe had to be refuted because this was an inter-State Convention and not a formal legal act of the Council of Europe.

In conclusion, Mr Golsong considered that the accession of the Community to the Convention would bring it nearer its goal, the guarantee of fundamental rights.

Mr Sasse, Professor at Hamburg University, thanked the organizers of the Round Table for having given him the opportunity to take part. It was a political event of importance for the future of the Community.

He listed three problem areas in the context of special rights:

Improved protection of the citizen's fundamental rights, since the protection provided by the European Court of Justice was limited. The Community must allow individuals wider access to the Court of Justice; he believed that the right way to go about this would be to amend the European Convention so that the Community could accede to this international agreement. The drafting of a catalogue of fundamental rights in relation to Community law would doubtless be a step in the right direction.

As for 'special rights', the granting of political rights would create enormous difficulties over and above those caused by fundamental rights. But there were nevertheless a number of factors which would allow a start to be made in making these rights effective. He gave as an example the situation in Ireland where nationals of other States had the right to participate in municipal elections.

On the basis of Mr Bayerl's working document, it was not possible for the Community to draw up a kind of universal Bill of Rights along the lines of those found in the federal States such as

the USA or the Federal Republic of Germany. The point was that there were wide disparities between the Member States in the sphere of special rights, and these disparities would grow even wider on the accession of other countries to the Community.

Professor Sasse therefore considered that improvements in the protection of fundamental rights was only possible at the present stage of development on the basis of Article 236 of the EEC Treaty, given that an extension of protection to special rights required an agreement between the Member States concluded under the terms of international public law.

The Community civil rights charter was a constitutional matter which could not be settled overnight. The European Parliament must continue its studies. The new, directly-elected European Parliament could make a declaration on fundamental rights which the courts of the Community and the Member States should take into account.

Mrs Caretoni Romagnoli, representing the Italian Senate, emphasized that the Round Table had aroused widespread interest in the Italian Parliament which was highly sensitive to matters concerning the rights of individuals. The fact was that the parliaments were the institutions which could ensure the broadest implementation of these rights. Speaking as a former member of the European Parliament, Mrs Caretoni Romagnoli recalled the long battle with the Council and the Commission to extend the rights granted to individuals by the Treaties to non-economic sectors.

In a Community consisting of countries with a democratic system of government there were disparities between the national legal systems.

Mrs Caretoni Romagnoli described the principles behind the legislation on elections to the European Parliament which the Italian Parliament was in the process of drafting. Any disparity in the position of Community citizens with regard to the right of universal suffrage had to be removed, not only as between nationals and citizens of other countries, but also between nationals living in their own country or abroad.

The new, directly-elected Parliament would be the chief protagonist in this battle. But the issues involved should be raised even during the election campaign. Here Mrs Caretoni Romagnoli was in agreement with Viscount Davignon on the need to inform Community citizens.

She concluded by emphasizing the political aspect of the problem. The whole subject should be included in the general political guidelines for détente, cooperation and peace.

Mr Storme, representing the Belgian Senate, stressed the advisability of specifying the content of special rights. The Community should draw up a new definition of these rights, referring to the principles contained in the UN instruments and in the European Convention on Human Rights.

He agreed with Mr Bayerl on the desirability of making a declaration on these rights which were specific to the Community. Furthermore, any catalogue should include all the rights specified in the European Parliament's resolutions, as well as the principles of economic and ideological freedom and of the continuity of law.

Special rights were already enshrined in the Community's legal system. Every Community citizen should be placed on a completely identical footing, and that was also possible on the basis of Article 215 of the EEC Treaty which referred to general principles common to the laws of the Member States.

Mr Storme considered that in view of the difficulties, Articles 235 and 236 of the EEC Treaty should be used specifically to incorporate special rights in the Community's legal system. He concluded by suggesting that at the end of the Round Table a declaration should be drawn up listing the rights which already existed and those which should be introduced. The declaration might be given the title of the 'Florence Manifesto', the city which had been the scene of Dante's struggle against arbitrary power.

Mr Cardia, representing the Italian Chamber of Deputies, emphasized the need — beyond the legal aspects — for a debate in greater depth on the crucial importance which fundamental rights had acquired in every legal system, whether national or Community.

There could not be any real democracy without a guarantee of individual and social freedoms. These freedoms should be codified, if necessary by means of a reform of the Treaties. The speaker reiterated what President Colombo had said and the difficulties of reaching satisfactory solutions. Furthermore, these difficulties arose not only at international level, but also when civil and political rights were being incorporated in the internal legislation of the individual Member States.

He did not believe that the Community as such could accede to the European Convention, at least not until it became a European Union.

On the other hand, on the basis of the documents submitted by Mr Scelba and Mr Bayerl, Mr Cardia thought that the various civil and human rights recognized in the Member States could be incorporated in the Community legal system by applying Articles 235 and 236 and within the limitations of the Treaty. This did not necessarily imply formal accession but a simple act of acknowledgement without any commitment to endorse these rights.

The present Parliament should proceed carefully but firmly on the basis of proposals from the Commission. He emphasized the importance of the problem raised by Mrs Caretoni Romagnoli, in other words the introduction of the right to vote without discrimination in every country for nationals of other countries. This was an innovation which should be implemented despite the serious difficulties it involved.

Apart from these rights, the Helsinki Final Act should also be codified since it constituted a commitment on the part of every country — regardless of its political system of government — to respect a wide range of civil and political rights.

The meeting adjourned at 12.35 p.m. and resumed at 3.30 p.m.

Mr Gaja, Professor at Florence University, said that the subject under discussion by the Round Table — the protection of 'political' rights — had expanded to include all fundamental rights. This could be seen in the resolution adopted by the European Parliament in November 1977. This new dimension had led to confusion between special rights and fundamental rights. But according to the statements made by Mr Scelba and Mr Colombo, the intention was that the required protection should supplement and not supersede existing protection.

The subject thus became much wider and implied the extension of Community protection to non-Community subjects, for the protection of fundamental rights stemmed from non-Community texts such as the constitutions of the Member States and international agreements.

This would create a source of conflict between the competent courts. It was therefore appropriate to ask how far we wanted to go. A radical solution would be to include everything in the Community domain. Parliament's resolution of November 1977 certainly smacked of radicalism, for it made the settlement of civil and political rights a matter for Community law. Furthermore, the European Court of Justice was to guarantee the uniform interpretation of these rights. In this system, the list of special rights would be more like a list of fundamental rights. This would certainly cause organizational problems for the European Court of Justice which might well be inundated with applications for preliminary rulings.

Moreover, Parliament suggested in its resolution that the legal basis for an agreement between the Member States could be either Article 235 or Article 236. He considered that an international agreement was impossible on the basis of Article 235 since this article provided only for a Council act.

But on the other hand an international agreement would be possible on the basis of Article 236 unless it were agreed with Professor Sasse that the only possible solution where fundamental rights are concerned would be to establish a federal State.

Professor Gaja concluded that it would be better to have a more restricted objective and to confine attention to certain fundamental rights to be granted to nationals of the Member States.

Mr Craig, Member of the Parliamentary Assembly of the Council of Europe, emphasized that his colleagues were very close to the European Parliaments's position as far as the objective of European Union was concerned. But this common interest called for coordinated action between the various European organizations.

The views submitted to the Round Table, on the other hand, gave cause for concern. Indeed, the proposals could prove to be harmful not only to the European Convention on Human Rights but also to the ultimate common objective, European Union. Although they could not

claim to be the sole judges of the consequences of any move towards European Union, the members of the Parliamentary Assembly were certainly well able to gauge the likely effects of a project on human rights.

The European Convention on Human Rights provided one of the best catalogues of its kind and it had only been made possible by its authors' faith in the principle of evolution and progress.

The danger lay in defining new concepts which might adversely affect the European Convention. If it was true that the Community needed to grant 'special rights' to the citizens of its Member States, it was also true that the establishment of a parallel system would create trouble and confusion in Europe.

The European Parliament should therefore proceed carefully in the sphere of fundamental rights. Citizens of one country living in another country had not only rights but also obligations. The European Parliament could not go beyond the economic sphere, which was as far as the Treaties went, making it desirable for the Community to accede to the European Convention.

Mr Condorelli, Professor at Florence University, expressed his bewilderment at the shift in perspective which had occurred in the period between the Conference of Heads of State or Government in 1974 and the European Parliament's resolution of November 1977. In 1974 the declared objective had been the granting of 'special rights', that is, a limited action in a specific field, whereas the European Parliament — three years later - was following a line which took in every aspect of human rights and fundamental freedoms.

This radical change in outlook implied a 'super constitution' covering all of the rights provided for in national Constitutions and international agreements and capable of imposing itself not only on Community institutions but also on national authorities. Furthermore, the protection of these rights would be the responsibility of the European Court of Justice which would thus act as a constitutional court.

In this respect the work of the European Parliament marked the beginning of a 'demolition process as far as national constitutions were concerned. In this context he recalled that the most recent judgments by the Court of Justice not only form a political but also a judicial point of view, which tended to shift the balance existing between the national constitutions and the Community system.

In those circumstances, the question was what such a process could achieve, whether it was worth pursuing and whether it was desirable for the European Parliament to take this political line.

Professor Condorelli agreed with what Professor Sasse had said about the danger of going too far, for it was impossible in practice to weld together such disparate factors as were involved. As to whether it was a course worth pursuing, he considered that the Member States of the Community — which had advanced constitutions and legislation as far as human rights were

concerned and were bound by the European Convention — provided sufficient protection for these rights.

As for the political desirability of the European Parliament's action, he recalled that the establishment of the European Community was based on a very specific political option, that is, economic integration. Only when this economic integration had been fully completed would it be possible to move on to political objectives. The fact was that economic integration had not yet been achieved and was still a long way off. That being the case, it could be asked whether, precisely because of the powers it wielded under the Treaties — which would certainly not be increased after direct elections — the European Parliament was not making a headlong rush with doubtful chances of success.

Mr Brugha, Member of the European Parliament, drew the attention of the participants to a number of items previously discussed, particularly to the statement contained in Mr Bayerl's report that the Community citizen should feel that he is a part of the society of people. Consequently, he must be granted electoral and other rights which affected him as an individual.

In the Member States there must be no discrimination between individuals. To achieve that, the public must be made aware of the problems; the forthcoming elections offered an excellent opportunity for the Community to tell the public what it was and what its objectives were. It was true that the European Parliament would not have more extensive powers than at present, but information on what the Community could become would highlight a democracy at work.

Economists considered man as a subject within the economic system. That was inevitable but we must not forget that, leaving aside this determinist view, man also acted in an environment which was not merely economic.

At present, human rights were still frequently violated in many countries. It was important that this should not happen in the Member States and here the European Parliament could do a great deal without overstepping the limits imposed on it by its actual scope for action in this sector.

Mr Georgel, Professor at the European University Institute, summarized the pessimistic, optimistic and realistic views on the subject under discussion.

Having reviewed the position of migrant workers in the Community and the complex problems raised by their participation in the life of the societies in which they lived, he concluded that the ways and means available to improve their situation were ludicrously scant compared with the wide range of government measures to which these workers were still subject.

The Community was only a reality to those categories of individuals who were directly affected by Community provisions (farmers, the professions, etc.) That showed how much

was still to be done and the extent to which we could accept Viscount Davignon's statement that 'the Community citizen' already existed.

The fact was that the 'Community citizen' did not yet exist and individuals would not be able to recognize themselves as such until they could genuinely see that the frontiers between the Member States had disappeared.

So what form should the Charter contemplated by the Round Table take? He was not entirely convinced by the distinction between fundamental rights on the one hand and special rights on the other. Were special rights not fundamental?

Special rights were all those rights to which individuals were entitled by virtue of the Community's existence, so that not only political but also civil and social rights were involved. Mr Georgel agreed with Professor Sasse and the representatives of the Italian Parliament that the establishment of a 'catalogue' of the Community citizen's rights would be a major step forward. However, the catalogue could not be exhaustive and would have to be added to as time went on.

Mr Masullo, Member of the European Parliament, said that the questions raised by this Round Table were of decisive importance for the future.

Mr Masullo confessed to being somewhat perplexed by the major declarations of principle whose sole importance was to illustrate the need for a start to be made. But now we had to go beyond these declarations of principle and determine what practical arrangements were needed to implement them. To this end a distinction had to be drawn between the idealist line and a policy for the practical implementation of provisions which would embody these rights. To combine these two approaches would only result in confusion, something to be avoided at all costs.

As regards the judicial arrangements to back these rights, he agreed with those who recommended a cautious approach to avoid having an outwardly perfect legal edifice that was in fact no more than an empty shell.

The action taken by the European Parliament on the basis of Mr Scelba's initiative would produce results if the discrimination still affecting the citizens of one Member State in another Member State were gradually abolished.

The expression 'special rights' could be interpreted in the light of this objective which the Community must attain. It did not signify a special category of rights but had been chosen to denote a package of provisions which should govern the citizen's status until the creation of the European Union. The rights in question would therefore apply for a limited period and serve a transitional purpose, but they were of capital importance if the present economic Community were to be transformed into a Community that embraced every aspect of human life.

Today's Community was in the process of jettisoning a whole series of outmoded conceptions. The subject being discussed by this Round Table had its origins in the historical awareness that was a feature of European culture, itself the product of the mutual influence of the spiritual and temporal traditions.

It was a subject which should be given its proper place and if we were to give it that place, we must consider the problems in the light of the present situation. The Community citizens would then realize that the determination of their rights would be in the hands of the European Parliament and that it could act effectively in the interests of man, of peace in Europe and throughout the world.

Mr Luster, Member of the European Parliament, offered a number of practical comments which also reflected the views of his colleagues from the *Bundestag* who were taking part in the Round Table.

The 'charter' proposed by Mr Bayerl must cover the following aspects:

- (a) The provisions of the European Convention on Human Rights;
- (b) The provisions of the UN pacts on civil and political rights and on social, economic and cultural rights;
- (c) The Community's economic and social provisions;
- (d) The guarantee of the citizen's right of participation, in particular the right to vote and the right to submit petitions;
- (e) Provisions for penalties against violations of the Charter reported either by individuals or by institutions of the Member States or of the Communities.

Mr Luster felt that the Community should not accede to the European Convention on Human Rights since this would increase the number of authorities with jurisdiction and also because the European Convention made no provision for penalties.

The directly-elected European Parliament must act as a constituent assembly. None the less, all the problems raised by the 'charter' should be fully discussed before the election so that as broad a consensus as possible was obtained within the constituent assembly.

Mr Luster felt that Mr Bayerl's document, albeit excellent, reflected too strong an ideological bias, especially as regards the inclusion of a ban on lock-outs among fundamental rights. This subject was too controversial to be settled in a 'charter'. It should not be forgotten that the Member States of the Community were democracies and the 'charter' should ensure that they remained democratic.

He agreed with Mr Storme that it would be desirable to wind up the Round Table with a 'declaration' or a resolution and suggested that a drafting committee should be set up for the purpose. As for future work, the Parliament should call on the assistance of the University Institute, the national parliaments, the Presidents of the Constitutional Courts and, of course, the Commission.

Mr Luster considered that basic obligations should also be discussed since rights were not a gift. He concluded by thanking Mr Scelba for having chosen this historic subject.

Mr Ehlermann, Director-General of the Commission's Legal Service, drew a number of tentative conclusions on special rights and also on fundamental rights or human rights which in the past had frequently been confused.

As regards special rights, the Commission had fully noted the statements by Mr Von Dohnanyi that the Council was expecting the Commission to submit specific proposals. These proposals should not be too long in coming but it was not clear whether they should remain within or go beyond the framework of the Treaty.

As regards fundamental rights or human rights, there was no reason for undue optimism or pessimism. To allay any pessimism, it should be pointed out that the Court of Justice had made a vital contribution through its jurisprudence. Nevertheless, the Court of Justice could not draw up a body of positive rights which could be claimed by the individual citizen. As regards the voting rights, there was no call for excessive optimism. In this context the speaker pointed to the statements made by Mr Jozeau-Marigné on the need for cooperation with the national parliaments after direct elections; in this respect the Round Table was an excellent instrument.

Mr Ehlermann recalled what Viscount Davignon had said about the European Parliament being given the task of drawing up the charter. This would be a lengthy and difficult task and expert help would be required. As for the Community's accession to the European Convention on Human Rights, the Commission had not yet adopted a position in the matter.

Mr Ehlermann said he agreed with Mr Sieglerschmidt and Mr Golsong. However, he was afraid that conflicts might arise between the Court of Justice in Luxembourg and the Court in Strasbourg. The European Court of Justice might well apply higher standards than those applied by the Strasbourg Court. The fears expressed by Mr Mitchell and Mr Luster were groundless: the Strasbourg Convention as Mr Sasse had emphasized, applied to rights which did not necessarily coincide with those which the Community was called on to protect.

The technical difficulties concerning the Community's accession to the Convention which was only open to nation States was a challenge which should be taken up.

Evidence must be provided to show that the Community was a subject in point of international law since this would allow it to accede to the European Convention. This would create an important precedent in relations with other international organizations. The

Commission had to solve a whole series of problems of this nature, for example, the Community's accession to the Mannheim Agreement on Rhine navigation.

As for the enlargement of the Community, access to the European Convention would make the applicant countries safer for democracy.

With regard to the problem of the admissibility of individual appeals, it would be better to wait until France had changed its position; this problem was also the reason for one objection to the establishment of a European charter.

In conclusion, accession to the European Convention was a possible first step, but under no circumstances could it be an excuse for doing nothing more or an end in itself.

The meeting adjourned at 5.35 p.m.

SATURDAY, 28 OCTOBER

The meeting resumed at 9.45 a.m.

Mr Scelba called on Mr Bayerl to reply to the arguments put forward by the participants at the Round Table.

Mr Bayerl thanked the participants for their contributions and speeches which had added to the knowledge of the subject. Not only did he thank those who shared his opinion but also those who had offered criticisms which would help to prevent any misunderstandings when action came to be taken. In particular he referred to Professor Condorelli's speech warning the European Parliament not to adopt a global view of the objectives to be attained which would lead to the establishment of a Community 'superconstitution'.

Nobody wanted a 'superconstitution', and no Member of the European Parliament who supported the idea of drawing up rights for the Community's citizen wanted to take from national authorities the powers which devolved on them in the field of fundamental rights.

On the other hand, in those sectors which now fell within the Community's terms of reference, we had to reach a position where the rights were guaranteed by the Community itself.

Generally speaking the debates at the Round Table had been most useful and would certainly help the Members of the European Parliament in their future work. One thing was certain; the European Parliament must continue its fight to consolidate the legal position of Community citizens.

The contributions made allow the conclusion to be drawn that there is unanimous agreement on the need to integrate citizens into the Community, that the Community of the States must be transformed into a Community of the peoples and that it was necessary to move rapidly on from this Community we have today towards a political union. But on the other hand there was no agreement on the procedures, the timing or the speed of the required measures.

The European Parliament, the Commission and in particular the Council must translate the decision taken to grant special rights to Community citizens into political reality. That was necessary to maintain credibility. Moreover, at this Round Table some participants had called for an end to solemn declarations and statements of principle when what the people were looking for was real achievement.

Naturally, there were difficulties when it came to granting special rights to Community citizens. But we could not urge people to vote for a Community which was incapable of guaranteeing the protection of their rights and preventing discriminations which were now unthinkable in a parliamentary democracy.

There were a number of types of discrimination to which migrant workers were subject. Such discrimination must be abolished as soon as possible for the existing difficulties were

increasing in all the Member States in proportion to the slowness with which these workers were being integrated into society. After a specific period of residence in a Member State, they should be able to take part in political activities at local or municipal level. This was already possible in Ireland and Sweden.

In reply to remarks made by Mr Sieglerschmidt, who thought that nationals from third countries could not be excluded from the right to vote at municipal elections, Mr Bayerl emphasized that special rights were conceived on the basis of the membership of the citizens of the Member States of a Community *sui generis* which would eventually have to transform itself into a political union. But the granting of special rights did not prohibit the abolition of discrimination against migrant workers from third countries.

As for the Council's attitude, Mr Bayerl hoped that they would consider the possibility of guaranteeing — by an amendment to the Treaty — the right of the individual citizen to appeal to the European Court of Justice, even before the Parliament had delivered a definitive opinion on the 'charter'. It was, moreover, surprising that the Council's representative had called on the European Parliament to do more in each of these areas of integration. The criticism was not justified. Perhaps in the past the European Parliament had concentrated too much on its advisory function. The new, directly-elected Parliament, however, could change its attitude to the Council, but the Council and Commission should remember that in the matter of the consolidation of citizens' rights, all the initiatives had come from the European Parliament which had thus shown that it needed no outside prompting.

On the contrary, it was the Council which in the past few years, had allowed obstacles to gather which were delaying progress towards political union for no valid reason. For example, the Council had failed to implement the passport union which had been agreed four years ago.

Mr Bayerl then replied to the objection that there was as yet no such person as the 'Community citizen'. That might be true, but if the Community passport had already been introduced, people would have noted the change. The Council's dilatoriness was also demonstrated by the fact that its Working Party on Special Rights, after four years' work, had not been able to submit an interim report to Parliament.

In these circumstances, Parliament's task was still to iron out any snags that occurred. One of the basic problems was the lack of a direct link between the individual and the Community. This gave rise to doubts on the outcome of direct elections, but what in fact was the cause? The reason why there was no link was that the individual citizen stood faced with a bureaucracy which he had no way of influencing, which was not subject to adequate parliamentary control, which did not properly recognize the right of the individual to appeal against its acts and which did not guarantee the protection of fundamental rights.

Those were the reasons which made it necessary to draw up and adopt a 'Community charter' and a system of protection of fundamental rights. This would not only grant individuals the right to appeal against acts and protect fundamental liberties, it would also confer political legitimacy upon the Community. This would be a specific job for the European Parliament. Thanks to the European Parliament's efforts, there had been a certain change of attitude in the Community institutions.

Mr Bayerl also thanked Mr Golsong for drawing up a draft protocol of accession to the European Convention for the Community. This solution did not seem to present insuperable difficulties. The European Court of Justice did not have international jurisdiction in the conventional sense of the term but quasi-national jurisdiction. It had done a great deal to protect the freedoms of the citizen, but that was insufficient. On the other hand, we could not claim jurisdiction for the Court beyond the powers attributed to it by legislation. It was for the legislative authority to create the legal situations required for the further development of Community jurisprudence. The Community's accession to the European Convention would not prevent Parliament and the Community from making parallel efforts to ensure equal protection of specific fundamental rights in the Community system. The European Convention might be sufficient to protect human rights and fundamental freedoms, but it was not enough in the Community context. Hence the need for a charter to protect the Community's specific fundamental rights, especially in the social and economic sectors.

The road ahead was long, and the Round Table had put forward a number of suggestions and recommendations which the European Parliament could bear in mind in its work before direct elections.

Mr Sieglerschmidt asked if he might reply briefly to Mr Bayerl and expand on his ideas concerning the right of Community citizens to take part in municipal elections. He was not opposed to a first phase in which this right would be granted to Community citizens. The remarks he had made perhaps sounded too theoretical and philosophical but he had been discussing the right to vote at municipal elections from the point of view of a direct relationship between the individuals and the localities in which this right was to be exercised. It was obvious that such a criterion applied not only to Community citizens but also to those from third countries.

As regards the 'catalogue' of fundamental rights, it was precisely because of the time required to draw it up and the need to avoid subsequent delays in the implementation of a 'charter of political rights' that further steps should be taken towards accession to the European Convention on Human Rights.

Mr Scelba thanked all the speakers and emphasized that the acceptance of all the suggestions and criticisms made was the sign of a democratic society. Through its discussions the Round Table had confirmed in the eyes of the public the profoundly democratic nature of the European Community.

Mr Scelba said that he proposed not to reply to individual speakers but to consider the problems which had been raised in the debate, particularly the objections to the resolution on special rights adopted by the European Parliament on the basis of a report he had drawn up. On the subject of the 'Community charter', Mr Bayerl had already expressed his opinion.

He summarized the contents of the European Parliament's resolution, comparing it with the proposal for a 'Community charter'. Parliament's resolution of 16 November 1977 made no

mention of a 'charter', but did not in fact discount the possibility of drafting and introducing such a 'charter'.

Furthermore, as rapporteur on special rights, he himself would never have ruled out the idea of a 'charter' of citizens' rights. He had not wished to start with a 'charter' of rights before the special rights were in fact granted. In this context he recalled that during the debate in Parliament on European Union he had tabled an amendment which was designed to ensure that the Proclamation of the rights of Community citizens was adopted in conjunction with the Declaration on European Union.

The European Parliament's resolution was therefore a practical contribution designed to implement the decision taken at the Paris Summit.

In his report on which the resolution was based, Mr Scelba had considered separately two subjects of capital importance:

- the incorporation in the Community legal system of civil and political rights and the extension of protection to these rights as was already provided for at Community level in the sector of economic rights;
- the placing of other Community citizens on an equal footing with national citizens in the field of civil and political rights.

The Round Table debate had largely dealt with the first subject because of its political scope and its implications on the purely legal level.

It was important to define the subject matter as an aid to concentration on a specific area, a point which had not been sufficiently borne in mind by some of the participants. In fact, the resolution adopted by the European Parliament, as it stated in its Preamble, should be seen as part of the transformation of the economic Community into a political Community.

If we lost sight of the reference framework of this resolution by the European Parliament, it would be impossible to follow the logic of Parliament's deliberations. Consequently some people had been tempted to view Parliament's position as 'maximalist' and considered its action as a 'headlong rush', whereas in reality Parliament was acting within the compass of decisions taken by the competent authorities.

The European Parliament's deliberations should therefore be regarded as helping this transformation from an economic Community into a political Community to get underway.

Mr Scelba emphasized that the limited scope of Parliament's contribution meant that some issues had to be left out of account. The first of these concerned the rights of nationals of third countries since the resolution was designed solely to assert the rights of 'Community citizens', given that the Paris Summit had taken a decision which concerned them alone. The expression 'special rights', which was generally considered to be somewhat unfortunate, referred first and foremost to the civil and political rights to be granted to Community citizens; but there was nothing to prevent some of these rights being granted to nationals of other countries. For example, the Member States could well grant these rights to workers from third countries if

they considered it politically appropriate. On this specific point Mr Scelba agreed with Mr Sieglerschmidt but said that this was a matter for the bilateral talks between the Member States concerned and the other countries. On the other hand, the granting of civil and political rights at Community level could only concern citizens of the Member States.

The second issue left out of account concerned the problem of fundamental rights or, as Mr Scelba preferred to call them, 'human rights'.

These human rights were inherent in the human being as such, and their violation was a violation of the human personality. Therefore, the State could not freely control these rights. For example, the individual's right to raise a family must be recognized by the State which at most could impose certain conditions governing the exercise of this right. Designating some of these rights as 'human rights' therefore gave to them the true value they deserved while still placing them in the general category of fundamental rights.

Today it was difficult to make a distinction between civil rights and human rights because civil rights were being humanized. In other words, there was a growing recognition that some of these rights were inherent in the human person, such as the right to freedom of expression, freedom of association, etc.

This should be seen as a most salutary process because it enhanced the worth of the human individual in society.

If the European Parliament's resolution did not mention human rights, it was because by definition human rights could not be granted solely to Community citizens: they must be recognized as applying to every human being regardless of nationality, race or creed. These human rights could therefore not belong to the specific category of 'special rights' which should remain reserved to Community citizens.

A third subject not covered in the resolution concerned economic and social rights. It had been left out in order to keep the European Parliament's deliberations to the framework imposed by the Summit decision, which — according to the Commission's interpretation — referred only to civil and political rights. The exclusion was further justified by the fact that economic and social rights already had a legal basis in the Treaty of Rome. What was required for the development of these rights was encouragement for the Community's common policies in various sectors. Furthermore, the inclusion of economic rights in the resolution would have signified commitment to a less practicable course since some of the rights were already covered by the Treaties and the various national constitutions by a declaration of principle, but their application depended primarily on the social and economic situation in each Member State. For example, the Italian Constitution did not provide for the right to work, but no Italian had ever dreamed of bringing proceedings before the Court of Justice for infringement of this principle.

Mr Scelba objected to the criticism that the European Parliament's resolution did not have a solid enough foundation; in fact this resolution traced its origins back to the Paris Summit decision of December 1974.

On the basis of this decision a Working Party had been instructed to study the conditions and timing under which the citizens of the nine Member States would be given special rights.

The Commission had placed an interpretation on the Council decision and defined the special rights to be granted in each Member State to the citizens of the other Member States. The granting of these rights would be based on the principle already enshrined in the Community Treaties of equality for all in the economic sector. Furthermore, the Commission had specified that the special rights of a political nature would be the right to vote, the right to stand for election and the right of access to certain public offices.

The European Parliament's resolution was therefore based on the Summit conference decision and was in line with the Commission's interpretation. Parliament could not remain inactive nor could it wait for the findings of the *ad hoc* Working Party set up by the Council.

Since this was the case, there was no foundation for the criticism of the European Parliament's resolution made in particular by Professor Conderelli. It should not be forgotten that no votes were cast against this resolution in the European Parliament. When the vote was taken there were a few abstentions, but they were only designed to allow a period for further thought. That meant that all the political groups had accepted the principles set out in the resolution.

In this context Mr Scelba referred to the speech made by Viscount Davignon in plenary sitting during the debate on the resolution. This speech contained all the arguments which could be used to refute the criticisms made during the Round Table, especially those made by Professor Gaja. He read out the speech, which vindicated the European Parliament's initiative, its timing and the resolution itself. More specifically, when discussing the legal basis Viscount Davignon did not wish to see Article 235 of the Treaty dismissed in favour of Article 236. This was in accordance with the evolutionary concept of the Treaty, and we should take the large view of the objectives of the Treaty, interpreting it in terms of a more dynamic process of development. Article 235 should be retained and put on an equal footing with Article 236. Apart from this Viscount Davignon attached great importance to Parliament's resolution because it allowed for the development of the notion of 'Community citizenship'. By coming so strongly to the defence of the European Parliament's opinion, Viscount Davignon had made himself the most eloquent advocate of the resolution.

As for the charge that the European Parliament was adopting a 'maximalist' approach, Mr Scelba once more referred to Viscount Davignon's speech, in which he had said that the resolution struck a sound balance between the optimism which is essential to any major venture and the sense of realism which lent it credibility.

Several speakers had suggested that Parliament's efforts in this field were among the most important in the Community sphere. Mr Scelba shared this view and invited Members of the European Parliament to draw the attention of their national parliaments to the changes taking place which would result in Community citizens being given additional guarantees over and above those afforded by their national systems. This was not unwarranted interference in the internal affairs of the Member States. There was no intention to 'demolish' national constitutions or create a 'superstate' which would control the Member States. Current developments proved that in 1957 the essence of the problem had been properly understood. In that year it had been affirmed that the principle of freedom was the foundation of the Community. The European Parliament's resolution was based on this principle and drew its inspiration from the lofty ideal of freedom.

As for the difficulties which would have to be overcome in implementing the resolution, Mr Scelba recalled that he himself had summarized them and suggested solutions in the report he had submitted to the Round Table.

Some speakers had said that the Court of Justice would eventually overthrow the constitutional system of the Member States, but Mr Scelba recalled that the principle of the primacy of the Court of Justice's judgments had already been established. Did that imply that the European Court of Justice was higher than those of the Member States? No, because it was one of the Community institutions, not an inter-governmental organization, and was therefore part of the internal legal system of the Member States. In other words, the Court of Justice operated alongside and not above the national courts. The Court exercised its jurisdiction in those areas which, the Member States acting freely and in a sovereign capacity, had transferred to it. Nor should we be pessimistic and believe that the Court of Justice would be inundated with a flood of new cases, because that would imply that the Member States were repeatedly and systematically violating the rights of their own citizens.

It had also been said that there was a move to enshrine in Community law all the provisions of the international treaties relating to human rights, the European Convention, and the constitutional provisions of the Member States. That would imply a vast accretion of highly complicated and disparate elements which would make interpretation difficult. In fact there was no need to include disparate elements because the international treaties, the European Convention and the national constitutions were based on the same principles. There would be problems, that was true, but the difficulties did not only exist in the area covered by the Round Table: they were to be found in every sector, as for instance in the accession of other countries to the Community. In Article 237 the drafters of the Treaty of Rome made express and unhesitant provision for the enlargement of the Community. They were aware of the difficulties which would have to be faced, but no progress is possible unless difficulties are overcome.

Summing up the debates, Mr Scelba felt that the Round Table had not opened up any new avenues and that showed there was no real alternative. The time had come to recognize the civil and political rights set down at the Paris Summit. The European Parliament would continue on its course, accepting every proposal which might make the problems easier to solve. To this end he appealed to the jurists present at the Round Table and also to the Principal of the European University Institute to continue their cooperation.

The European Parliament also wanted the national parliaments to help in improving the spread of information and the European Parliament's ideas. The Members of Parliament who had taken part in the Round Table should explain to their respective parliaments the real purpose behind the European Parliament's position and contribute towards the attainment of its objective.

Mr Scelba stressed the importance of the Round Table and of the public debate which had been held because the public was too frequently unaware of the work done by the European Parliament.

As for the proposal to publish a manifesto of citizens' rights, Mr Scelba would have been happy to do so, because Florence had always fought for civil liberties, but he was

unfortunately bound by the decisions of the European Parliament and could not go beyond the terms of reference it had laid down for the Round Table. Reports would be submitted to the Political Affairs Committee and the Legal Affairs Committee of the European Parliament and, where necessary, to the whole House. So there would be no formal declaration. The resolution adopted by the European Parliament and the debates of the Round Table would be a message to the electorate. This message was also addressed to all those who were campaigning to consolidate the protection of human rights anywhere in the world. The message of Florence would be heard during the campaign for direct elections.

Mr Scelba concluded by extending his thanks to all the participants, to the staff, interpreters and the European University Institute for its hospitality.

Mr Storme apologized for bringing up the charter of the Community citizen's rights again. While he understood Mr Scelba's concern not to trespass on Parliament's powers, he noted that the motion had been adopted by a large majority with only a few abstentions. Obviously it had been impossible to draft a charter of this nature in two days, but it would be possible to adopt a public statement on the basis of the reports submitted by Mr Scelba and Mr Bayerl.

Mr Scelba replied that it was clear from the European Parliament's resolution that the Round Table had not been asked to draw up a charter but to meet 'with a view to' drawing up a draft charter. The Round Table had made a valuable contribution to this objective.

The meeting closed at 11.28 a.m.

REPORT

by Senator Mario Scelba,
rapporteur for the Political Affairs Committee
of the European Parliament

Ladies and gentlemen,

I

As part of a policy for promoting European construction, the Conference of Heads of State or Government of the European Community held in Paris on 9 and 10 December 1974 decided to set up 'a working party to study the conditions and the timing under which the citizens of the nine Member States could be given special rights as members of the Community'.

When the working party was constituted at the meeting of the Committee of Permanent Representatives on 24 April 1975, it was agreed that the Commission of the European Communities should study the problems to which the granting of special rights to citizens of the nine Member States might possibly give rise.

The Commission put forward its ideas on the subject to the Council of Ministers of the European Community in a letter of 3 July 1975, which was later published in pamphlet form under the title: 'Towards a citizen's Europe'.

The Commission sums up its ideas in its forwarding letter to the Council as follows:

'The special rights that each Member State proposes to grant to the citizens of the other Member States are certain *civil and political rights, and the granting of these rights is inspired by a parallel principle to the principle on which the Community Treaties are based, namely, equiparation with national rights in the economic field*'.

The Commission also says: '*The special political rights are mainly the right to vote and the right to stand for election, as well as the right of access to public functions connected with the right to stand for election*'.

On 3 October 1976 the European Parliament's Political Affairs Committee requested authorization to draw up an own-initiative report on special rights.

At its sitting of 12 January 1976 the European Parliament granted this authorization and asked the Legal Affairs Committee to deliver an opinion.

At its meeting of 24 February 1976 the Political Affairs Committee appointed me rapporteur, while the Legal Affairs Committee appointed Mr Bayerl draftsman for the opinion.

Meanwhile the end of 1975 saw the publication of the report on European Union by the Belgian Prime Minister, Mr Leo Tindemans, who had been asked by the Heads of State or Government of the nine Member States to draw up this report in furtherance of the decision taken by the Paris Summit Conference of October 1972 to transform the European Community into a European Union within the decade.

Mr Tindeman's report to the European Council devotes an entire chapter, Chapter IV, entitled 'A citizen's Europe', to the issues that may be included under the heading of 'special rights'.

This chapter deserves to be carefully studied, both because of the detailed way in which the problems are set out and the practical guidelines laid down by the author.

'The construction of Europe', he writes, 'is not just a form of collaboration between States. It is a *rapprochement* of peoples who wish to go forward together, adapting their activity to the changing conditions in the world while preserving those values which are their common heritage. In democratic countries the will of governments alone is not sufficient for such an undertaking. The need for it, its advantages and its gradual achievement must be perceived by everyone so that effort and sacrifices are freely accepted. Europe must be close to its citizens.'

For this purpose one of the priorities proposed by the report is 'the protection of the rights of Europeans'.

In this connection the report says: 'the gradual increase in the powers of the European institutions, which will make itself felt while the Union is being built up, will make it imperative to ensure that rights and fundamental freedoms, including economic and social rights, are both recognized and protected. In this the Union will find confirmation of its political objectives.'

The report proposed that 'the European Council should instruct the institutions to propose how best to set about this recognition and protection. The latter must at all events mean that individuals will have the right of direct appeal to the Court of Justice against an act of an institution in violation of these fundamental rights.'

Before this report appeared, the European Parliament had adopted a resolution on 10 July 1975, in which it set out its own idea of European union (transformation of the European Community into a political community with powers extending to foreign policy and external security), and accepting an amendment that I myself had tabled, it hoped that 'with a view to giving the peoples of the Community a sense of common destiny, a 'charter of the rights of the

peoples of the European Community' will be drawn up and that practical measures capable of contributing to the development of a European Community consciousness, which have been requested for some time, will be adopted.'

On the basis of two written reports that I submitted on 24 March 1977 (PE 44.174) and 14 October 1977 (PE 45.833), the Political Affairs Committee held a wide-ranging discussion on this problem on which it had been made the committee responsible, and at its meeting of 20 October 1977, it adopted a draft motion for a resolution which, with a favourable opinion from the Legal Affairs Committee and the support of Commissioner Davignon, was adopted with virtual unanimity by the European Parliament at its sitting of 16 November 1977.

Before the resolution was adopted, representatives of all the political groups stressed the importance of the document that had been drawn up by the Political Affairs Committee and put before the Assembly for its approval.

Later, at the sitting of 13 April 1978, the European Parliament adopted a resolution tabled by the Socialist and Christian-Democratic Groups calling on 'the Commission of the European Communities to conclude by June 1978 its work on the granting of special rights to Community citizens on the basis of the decision of the Heads of State or Government of 9 and 10 December 1974 and the *resolution of Parliament of 16 November 1977*'.

At the same time Parliament decided 'to convene a Round Table on the granting of special rights to Community citizens for Autumn 1978 in Florence, at which, under the chairmanship of its rapporteur, Mr Mario Scelba, representatives of the institutions of the Community and the Parliaments of the Member States shall draw up a draft Community charter of citizens' rights'.

It must be added that as of this moment no decision on special rights has been taken either by the working party set up by the Council or by the Commission of the European Communities.

So much for the background to and the objectives of this Round Table.

The President of the European Parliament felt that it would also be advisable to invite a necessarily limited representative group of highly qualified experts on Community law to take part in this Round Table.

To the representatives of the national parliaments, the Community institutions and the legal profession who have accepted the invitation of the President of the European Parliament, I extend my greetings as chairman of this Round Table and my sincerest thanks, which I also convey to the other authorities present, the directors of the European University Institute for their hospitality and cooperation and to all others taking part in this Round Table.

The full text of the resolution adopted by the European Parliament on 16 November 1977, translated into all the official languages has been distributed, and I do not therefore need to read it. In order that all taking part may be as fully briefed as possible on the subject, the following documents have been distributed:

1. The European Parliament's resolution of 10 July 1975 on European Union;

2. My report of 14 October 1976 to the Political Affairs Committee' on special rights;
3. Mr Bayerl's opinion on the same subject on behalf of the Legal Affairs Committee;
4. The report of proceedings of the European Parliament's sitting of 16 November 1977 containing the full text of the speeches that preceded the adoption of the resolution on special rights;
5. The European Parliament's resolution adopted on 13 April 1978 convening the Round Table;
6. The preliminary study on special rights by the Commission of the European Communities entitled 'Towards a citizen's Europe'.
7. The Tindemans' report.

II

There are two main parts to the European Parliament's resolution of 16 November 1977, the basic document of this Round Table, on the granting of special rights to the citizens of the Member States of the European Community, to whom I shall refer to simply, for the sake of brevity, as 'Community citizens'.

The first part deals with the equality of Community citizens in the matter of civil and political rights and the extension to these rights of the Community's protection, including protection against acts by the governments of the Member States, as already laid down in the Community Treaties in the case of economic rights.

The second part of the resolution contains a precise and detailed list of various rights particularly civil and political rights, at present reserved to national citizens, which the Member States could grant to Community citizens as a preliminary to political union, under conditions to be laid down by Community legislation.

In its resolution of 16 November 1977 the European Parliament set out as the foremost of the special rights to be granted to citizens of the Member States of the European Community *the right to equality* in the matter of civil and political rights, backed by Community protection.

Under their respective national constitutions and similarly inspired international agreements entered into by all the Member States of the European Community, Community citizens do, in fact, enjoy the same civil and political rights and equal international protection, as laid down in the Treaties, in addition to the guarantees, albeit dissimilar, afforded by the various national constitutions.

However, the political need for closer links between Community citizens, for stronger protection of civil and political rights, and for progress towards political union, taken in

conjunction with other requirements that I shall refer to later, prompted the European Parliament to place first on the list of these special rights equality at Community level in the matter of civil and political rights and Community protection for these rights.

In order to bring this about as rapidly as possible, and given the length of time that a prior listing of the civil and political rights to be granted would require, the European Parliament decided to instruct the Commission of the European Communities:

‘to press for an agreement between the Member States, on the basis of Article 235 and, possibly, Article 236 of the EEC Treaty, under the terms of which:

the following would be considered — in the light of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948 — as integral parts of the Treaties establishing the Communities:

- (a) the European Convention on Human Rights of 4 November 1950 and subsequent Protocols;
- (b) the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on 19 December 1966;
- (c) the civil and political rights provided for in the constitutions and laws of the Member States.’

Raising to the level of Community law the provisions on civil and political rights enshrined in the constitutions of the Member States and in the international agreements entered into by them, achieves the second and politically more important objective, namely to extend to civil and political rights the Community legal protection laid down in the Treaty in the case of economic rights, both against acts by the Community institutions and against acts by the Member States.

As far as the individual States are concerned, international agreements afford a certain protection against violations of fundamental rights and of civil and political rights. It is obvious, however, that the value of this protection is a somewhat relative quantity. This may be put down to various factors, such as the difficulties the individual citizen faces in bringing an action, the intergovernmental nature and composition of the decision-making bodies and the difficulty of enforcing promptly any sanctions decided upon.

Community protection proves to be much more effective in the case of violations of economic rights.

Under the Community Treaties:

1. The protection of these rights is vested in the supranational Community institutions — the Council, the Commission and the Court of Justice.
2. The institutions can and must take official action against any measures on the part of Member States deemed to be in breach of the Community Treaties.

3. The decisions of the Community institutions, whether adopted on their own initiative or following an appeal from interested parties, are directly binding on the Member States concerned; the latter is required to enforce them not only *vis-à-vis* the plaintiffs in the action but also *vis-à-vis* its citizens as a whole, in so far as they are directly affected.
4. In the event of failure to comply with these decisions, there is provision for formal proceedings before the Court of Justice, with the prospect of sanctions going as far as the expulsion of the defaulting Member State from the European Community.

It is clear that a Member State could flout these provisions and persist in non-compliance, but by doing so it could automatically place itself outside the European Community with all the consequences that this would entail.

It must be remembered also in this connection that infringement of the economic rights expressly laid down in the Treaties, just as infringements of civil and political rights, could come about not only through legislation enacted in the national parliaments, but also through administrative measures decided upon by national governments.

The present situation in the European Community on this matter is that if, for example, the government of a Member State adopts measures designed to hinder the free circulation of goods, the Community institutions can take prompt action to ensure that these measures, deemed to be in breach of the Treaties, are repealed.

At the same time, there is some doubt as to whether the same Community institutions are empowered to demand, at least with the same promptness, the repeal of similar measures adopted on the formal grounds of monetary difficulties, but with the actual purpose of preventing the free movement of persons, a right recognized by all the constitutions of the Member States.

If the Member States' provisions on civil and political rights were raised to the status of Community law, the right of the Community institutions to take action would become incontrovertable, even in the second case.

III

The implementation of the resolution raises certain problems that were brought up during the debate in Parliament but did not prevent the resolution from being adopted.

1. The first problem is how to define which civil and political rights are to be made Community rights, since no catalogue of these rights has yet been drawn up and there is not always a clear distinction between civil and political rights, or between these and fundamental rights.

Elevation to Community status, as proposed by the resolution, clearly does not go beyond the stated objective since it does not include all the civil and political rights written into the

constitutions of the Member States and international treaties, but only those civil and political rights, violation of which on the part of any Member State would be likely to create inequality between Community citizens and to jeopardize the membership of the defaulting State in the European Community and hence the life and progress of the Community.

In practice, it will be for the Court of Justice to define the range and extent of the rights protected, whether, in response to the Community institutions seeking a preliminary ruling before adopting measures in restraint, or in response to an appeal from the Member State concerned against the measures in restraint or to an appeal from citizens directly affected.

Indeed, where the violation of fundamental rights is concerned, the Court of Justice already carries out this task, even though these rights have not been catalogued, handing down judgments on appeal from parties directly concerned on measures taken by the Community institutions or by Member States that are deemed to be in breach of these rights.

2. The second problem stems from the differences between the Member States constitutional rules with regard to civil and political rights.

As far as civil and political rights are concerned, the constitutions of the Member States are similar, if not identical, and are all based on the principles enshrined in the Universal Declaration of Human Rights.

The constitutions of the Member States and the international treaties entered into by them reflect a common heritage and are imbued with a common spirit. Most of the slight differences in the formulation of the various provisions come to light only when they are being interpreted and can be explained by the different backgrounds, including the political background, against which they are set.

That the differences between the provisions relating to civil and political rights are very slight is demonstrated by the fact that they have not prevented and do not prevent the nine Member States from being members of the European Community or from seeking to transform this European Community into a political community, which implies among other things equality between Community citizens.

Here again it will be the task of the Court of Justice, when called on to settle any disputes that may arise, to seek out the common 'spirit' that informs the various legislations and I feel that it may safely be predicted that the Court's interpretation will be on the highest and most humane level, but that it will not fail to appreciate the historical and political circumstances that may explain and justify certain measures which are not dictated by any underlying intention to infringe civil and political rights.

On the other hand, if the differences I have referred to proved to be an insurmountable obstacle, it would be futile to try to move the European Community in the direction of political union, or at least no advance could be made without first drawing up a catalogue of civil and political rights. This will be a difficult task if, as seems likely political union is achieved in stages and it will often be necessary to adopt a pragmatic approach.

The European Community is not a State and cannot therefore give itself a constitution, but it

is, if I may put it this way, a State in the making. For the present it is impossible to say how it will develop, how long it will take or what type of State it should ultimately become.

In those circumstances, any constitution drawn up at the present time could do no more than reflect the present status of its citizens and of its institutions and make non-binding statements of principle, notwithstanding our interest in furthering the construction of Europe and completing the task sketched out in the Treaties.

3. The third problem is that the protection of civil and political rights, especially against acts by the Member States, a task which the resolution calls on the Community institutions to perform, is fraught with difficulty. Of this there can be no doubt; it is both a complex and a delicate task.

However, this is no reason why it should be shirked but suggests rather that our institutional structures should be adapted accordingly.

If the inadequacy of existing institutional structures were to prevent the European Community from taking on new responsibilities, all the plans for transforming it into a political community would not be worth the paper they were written on.

In any case, the problem of improving the structures of the Community institutions has already been broached, not only with a view to the enlargement of the Community but also with new tasks in mind such as political cooperation and the planned monetary and political union. The Court of Justice itself recently raised the question of its own structures, considering them inadequate to cope with its growing workload.

Recently also the President of the French Republic made the formal proposal that three 'wise men' should be appointed to look into the problem of updating the Community institutions with a view to enlargement.

The last but by no means the least justification for improving these structures is the forthcoming election of the European Parliament by direct universal suffrage.

It should be pointed out here that, however delicate the task that has been entrusted to the Community institutions, it will be carried out under the watchful eye of a directly-elected European Parliament, representative of all the peoples of the European Community.

4. The fourth problem resides in the relationship between the Community protection of civil and political rights and those forms of protection provided for in the national legislations of the Member States and by international agreements, especially by the European Convention on Civil and Political Rights.

It is pointed out that the idea here is that Community protection of civil and political rights should not supersede, but rather supplement and consolidate the protection provided for by the Member States' legislations or by international agreements.

The clear inference is that as far as redress of grievance is concerned, Community citizens will be given freedom of choice, perhaps on the understanding that in specific circumstances, the rule of 'electa una via altera non datur' shall apply.

The possibility that the content of certain civil rights might be interpreted differently by the European Court of Human Rights and the Court of Justice of the European Communities is a problem that has already arisen inasmuch as the Court of Justice has claimed the right to review Community legislation where it is alleged to infringe fundamental rights. In their discussions on this matter the experts have come to the conclusion that the only solution lies in agreement between the two Courts to hold exchanges of views in order to arrive at uniform interpretations.

The relations between national courts and the Court of Justice have already caused controversy, particularly following a ruling by the German Federal Constitutional Court claiming for itself the right to decide whether Community measures alleged to contravene the fundamental rights laid down in the German Constitution were admissible. In delivering its opinion on the matter, the European Parliament acknowledged the supremacy of judgments handed down by the Court of Justice over those of national courts, even in the matter of respect for fundamental rights.

5. To state one further problem, it may well be asked whether there are, in fact, good grounds for taking measures such as those proposed in the resolution, particularly for Community protection of civil and political rights, before the Community reaches the stage of political union.

The first point that should be made here is that the European Parliament's resolution stems from the decision of the Paris Summit on the granting of 'special rights' to Community citizens. In its resolution the European Parliament took the view that the special rights to be granted to Community citizens should include, first and foremost, Community protection for civil and political rights, including protection against acts by Member States.

The second point is that respect by the Community institutions for fundamental rights, which partly overlap with civil rights, has already been the subject of proceedings before the Court of Justice; the Court ruled that it had the right to exercise control and take decisions in this matter on appeal from parties who considered their rights to have been infringed by measures adopted by the Community institutions.

It was precisely this situation that prompted the Presidents of the three Community institutions, Parliament, Council and Commission, on the basis of a prior opinion delivered by the Parliamentary Assembly, to sign the following declaration on 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, the 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 on 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.'

This is undoubtedly a very important declaration, but it reflects a purely political commitment.

The appeal to the constitutions of the Member States and to the European Convention for the Protection of Human Rights and Fundamental Freedoms is particularly significant.

The possibility of the Community institutions, given their supranational and plurinational character, violating the fundamental rights and the civil and political rights of Community citizens would seem to be rather remote, and I would say that it would be more likely to result from an attempt to interpret the scope or content of a regulation than from any deliberate wish to infringe it. Violations by individual Member States are, however, much more likely, and these, as we have already pointed out, could have the effect of creating disparities and inequalities between Community citizens, so that it might ultimately become impossible for the Member State in question to remain a member of the European Community, which is of its very nature democratic and pluralist. Thus the whole progress and development of the Community could be put at risk.

The Member States' governments were aware of this when they decided to forestall the dreaded risk of violations by Member States of civil and political rights with their 'declaration on democracy' issued at the conclusion of the meeting of the European Council in Copenhagen on 7 and 8 April 1978. This declaration reads as follows:

'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 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.

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.'

This declaration also, which commits the various Member States of the Community to respect and uphold fundamental rights, representative democracy and human rights, is of great importance politically, but only politically.

These declarations by the Presidents of the three Community political institutions and by the European Council are ample justification for the proposals contained in the resolution of 16 November 1977.

The aim of these proposals is essentially to lend legal force to the content of the two declarations and thus to afford more effective protection for civil and political rights and for equality between Community citizens in this respect, as is already the case with economic rights, and to buttress the foundations of the Community.

The European Parliament has always taken the view that part of its task is to strengthen the bonds that unite the Community and help it evolve towards a political community in accordance with the blueprint outlined by the EEC Treaties.

By making a specific reference to the decisions of the 1972 Paris Summit to translate this blueprint into reality within the decade, the European Parliament in its resolution of 16 November 1977 wished to make its own contribution to the establishment of rights for Community citizens, but in the form of practical proposals that could be readily implemented within the frame of reference of special rights to be granted to the citizens of the Member States before political union was enshrined in any formal treaty.

IV

The points of a general nature that I have made in commenting on the first part of the resolution of 16 November 1977 are also relevant to the second part. What I have to say on this second part will therefore be brief. In any case the rights listed in it do not need any special explanation.

The second part of the resolution urges the Commission of the European Communities to lay proposals before the Council, granting to Community citizens a series of civil and political rights at present reserved to national citizens, which the Member States could extend to Community citizens under conditions to be determined by the Community institutions and subject to uniform rules.

Foremost among these rights are the rights dealt with in the Tindemans report. They are a rather mixed bag, some of them coming under the heading of social rights and others that are or have been the subject of much debate within the Community institutions.

Apart from the question of protecting the rights of Community citizens, to which I have already referred, the Tindemans report proposes that the Community institutions be entrusted with the task of protecting consumer rights and the environment and makes other proposals which it calls 'the external signs of our (Community) solidarity'.

These proposals relate to a passport union, the abolition of tariffs that discriminate against transport and telecommunications and the simplification of procedures for refunding the medical expenses incurred by citizens.

On the subject of these and other proposals the Tindemans report has this to say: 'The day that Europeans can move about within the Union, can communicate among themselves and when necessary receive medical care without national frontiers adding to the problems of distance, European Union will become for them a discernible reality.'

The same can be said for all the proposals contained in the report and in the European Parliament's resolution.

In the same connection the Tindemans report proposes that there should be greater integration in educational matters and that the citizens of the Community should be given better information and helped to get to know each other better, particularly through the media of radio and television.

The proposals made at various times by Parliament and listed in the resolution come under the heading of civil and political rights.

They include:

- the right to submit petitions;
- the right to stand for and vote at elections and to hold any public office for which the citizen in question would normally be eligible at local authority level;
- the right of Community citizens who have been resident in a Member State for at least ten years to stand for and vote at elections and to hold public offices for which they are eligible in all regional administrative authorities between local authority and State level (departments, provinces, counties, regions etc.);
- the right to stand for and vote at elections for political office, for Community citizens satisfying special requirements.

In my report of 10 October 1977 to the Political Affairs Committee I referred to this matter of the fulfilment of the requirements for obtaining citizenship of a Member State.

The proposals also include:

- all the rights connected with the right to stand for and to vote at elections, and in particular the freedom of assembly and association;

- equality with citizens of the Member State in which the Community citizen concerned resides as regards the assertion of rights and access to offices and posts in the professional, social and economic sphere, if necessary after a suitable period of residence;
- the right to belong to a trade union;
- the right of residence for all Community citizens showing evidence of possessing sufficient means of subsistence;
- the right of Community citizens to use their mother tongue and to choose freely lawyers from any Member State for their defence in court actions;
- the right of Community citizens to open private schools and to teach and study in them under the same conditions laid down in respect of nationals.

The preamble to the resolution states that in practice, the principle of equality between Community citizens in the matter of civil and political rights must necessarily be implemented gradually, under Community regulations valid for all the Member States.

Parliament was well aware of the political and legal difficulties that would have to be overcome before the measures suggested could be implemented; there was no question of implementing all the proposals automatically and immediately.

The compilation of a list of the rights to be granted to Community citizens in the form of 'special rights' has nevertheless the merit of pointing the way, even if pointing the way does not mean an immediate headlong rush.

To take only the legal difficulties, I need not go any further than the matter of citizenship, which in all Member States except Ireland and the United Kingdom — and even there partially — is linked with the exercise of political rights, including the right to stand for election at local level, which is the subject of one of the proposals by the Commission of the Communities.

In some States, moreover, the requirement of citizenship for the exercise of electoral rights and access to public office at all levels is governed by stringent constitutional rules that cannot be changed except by way of long and complicated parliamentary procedures.

These difficulties, however, have not prevented the implementation of the principle of equality as between Community citizens in the economic sector.

However, at the stage that the European Community has now reached and with European Union in the offing — if the decisions already taken are adhered to, it should be a reality by 1980 — the Community's citizens are finding the Member States' rules on naturalization and withdrawal of citizenship increasingly anachronistic, and yet they open the door to the exercise of civil and political rights.

Even at this stage Community citizens cannot be regarded as foreigners in any one of the Member States.

However, there can be no real political community and no European Union unless there is full equality between the citizens in all intra-Community affairs and unless in each and every Member State citizens of other Member States enjoy the same rights as the nationals of that State in civil and political matters as well as in the economic field.

Political union will become a reality through the establishment of equality between the citizens of the Community in all fields.

In view of the progress of Community integration following the signing of the Treaties of Paris and Rome and the demands and hopes for further development which led up to the decisions of the Heads of Government of the nine Member States concerning the transformation of the European Community into a 'European Union' and the special rights to be granted to Community citizens even before the Union is formally constituted, this is a timely moment in which to discuss the status of Community citizens and the extension of the recognition of Member States' nationals as equals in the economic sphere to the sphere of civil and political rights.

This is what prompted the European Parliament in its resolution to extend the scope of 'special rights' beyond the original proposals, considered too restrictive, submitted by the Commission of the European Communities in the pamphlet with the more suggestive and symbolic title: 'Towards a citizens' Europe'.

This extension in scope was subsequently approved by the Commission when Commissioner Davignon came out in support of Parliament's resolution.

V

Both the Political Affairs Committee and the whole House debated the problem of whether Article 235 or 236 of the EEC Treaty should be taken as a basis for the implementation of the proposals made in the resolution, in other words whether a convention adopted by the Community's Council of Ministers would be sufficient or whether it was necessary to have an intergovernmental agreement subject to ratification by the national parliaments in accordance with their respective constitutional requirements.

The resolution mentions both articles since it was felt, and Commissioner Davignon agreed, that there were arguments for taking Article 235 for some of the proposals.

First and foremost, the principles of liberty and democracy upon which the Treaties of Paris and Rome establishing the European Communities are founded.

Secondly, the provisions of the Treaty which guarantee Community citizens equality in the matter of economic rights and the right of establishment.

Thirdly, the fact that Community legislation (regulations) is applicable directly to all

Community citizens without distinction of nationality and without prior approval by national authorities.

Finally, the evolution of the Community in accordance with constitutional practice: extension of the Community's authority to international affairs, wider powers for the European Parliament, a new relationship between Parliament and the Council and the Commission — involving a limitation on the powers of the Council and the Commission in favour of Parliament and so on.

It may reasonably be argued from this that the European Community is already to some extent a political community and that Community citizens can no longer be considered aliens in any of the Member States or at least cannot be treated as aliens.

A number of principles and rules contained in the Community Treaties have diluted the concept of nationality which is the condition for the exercise of electoral rights in almost all the Member States.

For these reasons it is felt that some of the proposals contained in the resolution of 16 November 1977, i.e. those considered to be a development of the principles and rules already contained in the Treaties, could be put into effect by applying Article 235.

Obviously Article 236 will have to be used for the other proposals and accordingly the resolution also made reference to it.

It has already been pointed out that political rights may usually only be exercised by the nationals of the State concerned and that many States, including Italy, have enshrined this requirement in their constitutions. Hence if aliens were to be granted the right to participate in election, even if it were limited to the right to stand in local government elections, would require an amendment to the constitution. In order to avoid this difficulty and to make Community legislation applicable in this area, an amendment to the constitution has been formally proposed in a bill drawn up by the Senate's European Community Affairs Committee, of which I have the honour to be chairman, which, if adopted by the two Houses of Parliament, will make it possible for a piece of ordinary legislation to grant the right to stand for and vote at elections and to hold public office at all levels to Community citizens. Community legislation on civil and political rights could then be applied in Italy in the same way as Community legislation on economic matters.

If there is the political will in the governments of the States of the European Community to make real progress in this field by implementing the European Parliament's proposals, they may be helped by a framework convention consisting of two articles:

The first article would lay down that constitutional provisions and international agreements on civil and political rights could form part of Community law.

The second would allow Member States to adopt ordinary legislation to grant equal status to the nationals of Community countries in all sectors including civil and political rights.

A convention of this sort ratified by the national parliaments in accordance with their respective constitutional requirements would then make it possible to bestow the individual

rights proposed by means of Community legislation step by step with process of political unification.

The plan devised by the European Parliament — a short cut for certain questions — although it would bring the goal nearer, is not an easy one to carry out.

But the European Parliament's duties include the opening up of new practicable paths to advance the cause of European unification.

The European Community would not have been born if it had not been for the actions of men convinced that the difficulties which opposed them could be overcome and who therefore decided that they would overcome them.

The European Community would not have grown nor would it have been possible to plan for further developments if there had not been a constant effort to break through the encrustations and entanglements which block the path and overcome deep-seated notions which, however respectable they may be, have become anachronistic as we stand before the decision to press forward with European unification.

The European Parliament has played an important role in this action.

When adopting its resolution the European Parliament was fully aware that the forthcoming elections under universal suffrage would give a greater momentum towards the unification of democratic States in Europe.

In addition the European Parliament intended that its proposals on civil and political rights should give an indication to the electorate of the potentials inherent in the European Community and modify the views of those who felt the European Community was only an instrument for achieving more efficient economic organization.

The proposals in the resolution therefore implicitly recalled the origins and objectives on which the European Community was founded. A Community indeed designed to improve the economic position of the citizens of the Member States but, above all, a new and original instrument for strengthening freedom, democracy and peace in the Member States and in the world. A Community with a human face.

It is thus not unduly dramatic to say that the political unification of Europe in a spirit of freedom, democracy and social progress is a revolutionary but peaceful process; and it is an ideal which can attract young people who are disorientated by the crisis of values which is sweeping through the West and who are searching for new ideals.

The resolution is therefore also a direct message to the citizens of the Community and particularly the youth of our countries who, in a few months from now, will be called upon to elect the members of the European Parliament. This unique event and the possibilities which it holds, may determine the whole nature of history in the 20th century.

REPORT

by Mr Bayerl
Rapporteur of the Legal Affairs Committee
of the European Parliament

Propositions concerning the preparation of a European Community civil rights charter

I. Grounds for an involvement of the European Parliament are as follows:

1. The call by the Conference of Heads of State or Government, now known as the European Council, on 9 and 10 December 1974, to study, in a working party, 'the conditions and the timing under which the citizens of the nine Member States could be given special rights as members of the Community' (Point 11 of the final communiqué);
2. Considerations and proposals to incorporate at Community level the establishment of fundamental rights and their protection throughout the process leading up to European Union (see IV A 1 'Protection of rights' in the Tindemans report to the European Council on European Union);
3. The plan to ensure the protection of fundamental rights in Community law by means of a code of fundamental rights, first proposed by the European Parliament — soon to be legitimized through direct elections;
4. The need to give a political answer to the German Federal Constitutional Court decision of 29 May 1974 (2 BvL 52/71), in which this highest German court reserved the right to establish, where necessary, whether Community law was compatible with civil rights applicable in the Federal Republic of Germany, because the Community does not have a code of fundamental rights or a parliament directly elected by the people and empowered to enact legislation;

5. The fact that the European Parliament, through direct elections to be held on 7 to 10 June 1979, is about to make up for its lack of popular legitimation by the citizens of the Community, can and would thus appear qualified and required, as the directly legitimized representative body of the 'peoples of the States' brought together in the Community' (see Article 137 of the EEC Treaty) to take the initiative in closing the serious legitimation gap, which could well jeopardize the entire political system, both national and supranational.
6. The need, with a view to political union and further enlargement of the Community, to achieve broader democratization by protecting fundamental and civil rights, a process which would make the people part of the Community.
7. The primary aim of the Round Table should be to lay down a reference framework and objectives for a Community bill of rights. The actual drafting of the bill, which will form one of the linchpins in the institutional structure of European Union could thus be made one of the major tasks to be assigned to the European Parliament after direct elections. In drawing up the appropriate treaty for ratification by the Member States, Parliament should have strong backing from the Commission. The political mandate to proceed with this task should be obtained by Parliament from the European Council as soon as possible — before direct elections if necessary. Here the European Council should be in a position to refer to assessment of the outcome of the Florence Round Table, and the relevant parliamentary resolution.
8. Neither the outcome of the Round Table nor the ensuing activities of Parliament and the Commission detract in any way from the authority of the Court of Justice of the European Communities, or from that of the national courts and parliaments in respect of the further development of civil rights.

II. Protection of fundamental rights in the European Community at present:

1. Fundamental and civil rights are dealt with in the Community treaties only sporadically and in most cases only provide protection in given sectors related to the goals of the Community ('market citizens').
2. Firmly established international norms regarding protection of fundamental rights, such as those provided for in the European Convention on Human Rights, the European Social Charter, the two international United Nations pacts on economic, social and cultural rights and on civil and political rights, do in fact apply — to differing degrees — in the Member States, but not in the European Community as such.
3. Although the institutions of the European Community (European Parliament, Council, Commission) committed themselves in a solemn declaration on 5 April 1977 to respect fundamental rights in all their actions, the European Council giving its blessing to this commitment in its Copenhagen declaration on democracy of 7 and 8 April 1978, neither

of these two declarations is legally binding: they merely constitute political declarations of intent.

4. Recognition should be given to the fact that, since 1969, the European Court of Justice has considered it its duty and right to ensure the protection of the personal freedoms that form part of the general principles of the Community's judicial system, which is made up of written law (specific Treaty provisions) and unwritten law (general legal principles of the Member States).

III. The following options may be considered for safeguarding fundamental rights in the European Community:

1. The European Court of Justice could continue as hitherto to hand down binding decisions to protect human and civil rights as opposed to establishing and applying Community law, and thus, by creating legal precedents, developing a body of unwritten Community law, one of the main aims of which would be safeguarding the fundamental rights of the individual.
2. The European Community could attempt to ensure that the European Convention on Human Rights and its existing and future additional protocols apply directly to all legal acts of the European Community. Both plaintiffs and the European Court of Justice could then refer directly to the Convention, and consideration by the Court of Human Rights would be possible.
3. Alternatively, the European Community could aim at applying fully the two international UN agreements of 19 December 1966 on civil and political rights on the one hand and on economic, social and cultural rights on the other.
4. The Member States could take steps to ensure that every Community citizen is placed on a completely identical legal footing in every Member State.
5. The Community's fundamental rights could be based, in accordance with the principle of additionality, on the national law having the most far-reaching provisions.
6. A general provision could be incorporated in the Treaties, calling for the protection of human, fundamental and civil rights within the framework of the Community.
7. The European Parliament could attempt to draw up a catalogue of fundamental rights based on the specific needs of the Community and to secure its adoption by the Council as a binding legal act.
8. To safeguard their rights, citizens of the European Community, as individuals, should be given the right both to address petitions to the European Parliament and immediately to contest acts of secondary legislation before the European Court of Justice, provided they can demonstrate a direct interest.

- IV. 1. The European Parliament should give preference to the most far-reaching of these alternatives, namely the drafting of a special Community catalogue of fundamental rights, because:
- although the legal protection of the individual is safeguarded, on a case-by-case basis, by the jurisprudence of the European Court of Justice, the sovereign action of the Community bodies will only be legitimized when a catalogue of fundamental human rights is incorporated in the Treaties; moreover, the protection of fundamental rights is of considerable constitutional significance for the new political structure of the Community;
 - the European Convention on Human Rights does not offer adequate protection, quite apart from the legal difficulties it involves;
 - the international agreements are neither practicable nor do they constitute European solutions;
 - identical treatment of Community citizens in every Member State is not enough;
 - implementation of the principle of additionality would run into legal difficulties.
2. The catalogue, however, would include the right to petition and the right of individual appeal.

Adoption of a catalogue of fundamental rights for the Community would best fulfil the electorate's expectations both of the European Parliament and of eventual political union. It is the only way of finding a completely satisfactory solution to the conflict between Community law and national legislation in this sphere. It would at the same time provide an important contribution towards the safeguarding and further evolution of democracy in the European Community, *inter alia* in the light of enlargement.

3. A Community catalogue of fundamental rights could, because of the limited scope of Articles 100 and 235 of the EEC Treaty, be adopted only in part as a Community Act. A treaty under international law, presumably based on Articles 220 and 236 of the EEC Treaty and thus requiring ratification by the parliaments of the Member States, would be necessary.
4. A draft civil rights charter adopted by the directly-elected European Parliament would be the result of a compromise reached after discussion in committee and plenary session and thus reflecting the current thinking on fundamental rights of the elected representatives of the Community as a whole. There would therefore probably be minor differences between the fundamental rights as adopted and existing national laws.

V.1. The safeguarding of fundamental rights in the treaty system of Community law does not constitute a threat to the sovereign powers of the national parliaments and courts; furthermore, the jurisprudence of the European Court of Justice is not sufficient in itself to ensure further progress on fundamental rights. Only one of the nine Member States need refuse to apply Community law on the grounds that it conflicts with the Member State's legislation, for the existence and uniform application of Community law to be jeopardized. This would seriously handicap the further development of European integration and at the same time be a challenge to the parliaments of the Member States to act since by ratifying the original treaties, they were responsible for giving life to the European Community in the first place.

2. For some time now the process of European integration has been extended beyond economic integration to include more and more components of a general political nature. In the field of political cooperation, for example, the European Community played an important role in the conclusion of the Conference on Security and Cooperation in Europe, Basket Three of which is concerned chiefly with the safeguarding of human and fundamental rights. Now that all Member States of the European Community have ratified the European Convention on Human and Civil Rights — with some differences remaining with regard to the possibility of implementing it — and discussions on updating human and civil rights are under way, it would be only logical if the European Parliament were to take on the task of drafting a Community charter for civil rights and request the assistance of the national parliaments in this project now, rather than waiting until the charter was ratified.

VI. The European institutions should therefore agree to draw up a catalogue of fundamental rights based on the following considerations:

As the European Community proceeds towards political union, the 'market citizen' must be transformed into a 'Community citizen' by means of a 'European Community charter of civil rights'.

1. This 'Community charter of fundamental and civil rights' must:

- (a) protect individual freedoms; this also includes the safeguarding of those individual rights which are today — for example, as a consequence of modern technology — particularly endangered;
- (b) help to shape, extend and consolidate fundamental social rights;
- (c) enshrine in Community law the right to work, the freedom of association, the right to strike, the prohibition of lockouts, and the principle of worker participation;

- (d) eliminate provisions in Member States' legislation which discriminate against other Community citizens; Member States should also make their citizenship available to all Community citizens and simplify the naturalization process;
- (e) specify and extend the rights of citizens to political activity on the basis of Community law; this includes
 - the right to vote and to be elected, starting at local level;
 - access to public office.

The nations and citizens of the Community must be able to preserve their national and cultural identities.

2. In pursuing these aims, this Community charter must, where the policy or powers of the Community are directly or indirectly affected,
 - (a) — establish fundamental rights and freedoms as rights to be defended against State authority at all levels within the Community,
 - establish fundamental and civil rights as entitlements *vis-à-vis* the States as members of the Community,
 - ensure the entry into force of social and political rights in respect of participation in all parliaments and government bodies,
 - (b) — establish the Community citizen's legal position and his rights to protection *vis-à-vis* the Community institutions (personal appeals to the European Court of Justice) and
 - introduce the right to petition.
3. The full implementation of the European Convention on Human Rights in respect of all actions and legal acts of the European Community must be formally secured.

REPORT

by the chairman, Mr Scelba,
to the office of the President of the European Parliament on the
proceedings of the Round Table held in Florence

Pursuant to its resolution of 13 April 1978, the European Parliament held a Round Table on 26, 27 and 28 October 1978 at the European University Institute in Florence.

The resolution required that the Round Table should consider, under the chairmanship of the writer, the granting of special rights to Community citizens and that 'representatives of the institutions of the Community and the Parliaments of the Member States shall meet to draw up a draft Community charter of citizens' rights'.

The participants at the Round Table included representatives of the European Parliament, Mr von Dohnanyi, President-in-Office of the Council, and Mr Davignon, representing the Commission. The Court of Justice apologized for not sending representatives, explaining that it was prevented from doing so by the particularly heavy workload to which it was during that period subjected.

All the Parliaments of the Member States sent representatives, with the exception of the United Kingdom. In a letter of apology to the writer, the Speaker of the House of Commons explained that the invitation had arrived when the House was in recess and that he had therefore been unable to select, in agreement with the leaders of the political groups, representatives to send to Florence. The French Parliament was represented by the Senate only.

The Round Table was also attended by a group of students from the different Community countries, who had been expressly invited at the request of the European University Institute in Florence. The Institute itself was represented by its Principal, Mr Kohnstamm and two teachers.

The Council of Europe was also represented, it having asked to be invited in view of its special interest in the topics to be discussed.

The President of the European Parliament, Mr Emilio Colombo, was also present at the beginning of the meeting. He welcomed participants both personally and on behalf of the European Parliament and called attention to the importance of the themes for discussion at the Round Table.

A message of welcome was also given by a representative of the Administration of the City of Florence, who then invited delegates for cocktails in the Palazzo Vecchio.

After welcoming delegates, the Principal of the European University Institute gave a full report on the work of the Institute and the research studies in progress, and announced that the Italian Parliament had approved the substantial appropriation needed for the conversion work on the Badia Fiesolana building.

The work of the Round Table proper commenced at 4 p.m. on 26 October and was introduced by two reports, presented respectively by the writer and Mr Bayerl, who had already drafted an opinion on special rights for the Legal Affairs Committee.

The meeting of 27 October was divided into two sessions and devoted exclusively to a debate in which practically all representatives took part.

On the morning of 28 October the two rapporteurs answered questions, after which the Round Table was brought to a close.

In order to underline the fundamental importance of the subjects discussed, some Members of Parliament proposed concluding the Round Table with the adoption of a manifesto addressed to the European electorate.

I felt, however, that I could not accept this proposal, partly because it was not authorized by Parliament's resolution, partly because of the diversity of opinion represented in the Assembly, but above all because of the need to safeguard the sovereignty of the European Parliament, which alone has the authority to adopt decisions of this kind.

All the speeches have been duly collected and, once translated in all the languages, will be sent to the office of the President for such action as is deemed appropriate.

I would take this opportunity of making a few observations on the content of the debate.

The debate naturally focused on Parliament's resolution of 16 November 1977 (the subject of the author's report) and on the possibility of a European charter of civil rights being drawn up by the European Parliament (subject of the Bayerl report).

On the first topic no significant critical observations were made, except as regards the first part of the resolution of 16 November 1977 concerning the incorporation into Community law of the provisions on civil and political rights embodied in the constitutions of the Member States. However, as will be seen from a perusal of the speeches themselves, the most important criticism arose from a conception of the European Community's development towards political union which conflicted with that envisaged by the European Parliament's guidelines.

Again in connection with the resolution of 16 November 1977, important statements were made by the President-in-Office of the Council, Mr von Dohnanyi, on the proposals of the current Presidency to give new impetus to the work of the Working Party on Special Rights set up pursuant to the decision of the Paris Summit of December 1974. Mr von Dohnanyi also urged Parliament to press for the implementation of its decisions on special rights.

The Commission representative, Mr Davignon, confined his remarks to emphasizing the importance of the special rights already enjoyed by the citizens of the Community and to impressing on delegates the need to enhance public awareness of these rights. He made no mention, however, of any Commission proposals for implementing the resolution of 16 November 1977, even though he had welcomed it in his speech during the plenary sitting of 16 November 1977, the details of which were subsequently recalled by the writer when replying to questions.

Nearly all the speakers dwelt at some length on the theme of the report by Mr Bayerl and on the proposals he had submitted for a European charter of civil rights.

In line with his report, Mr Bayerl told the meeting that he firmly believed in the need for a 'European charter of civil rights', but felt that all decisions on the matter should be referred to the future directly-elected Parliament, which would alone be competent to adopt them.

I would point out in this connection that in its resolution of 10 July 1975 the European Parliament affirmed the need for a charter of the rights of the citizens of Europe to be introduced in parallel with European Union, which, at the time, was expected to be achieved before the end of the present decade. Furthermore, in the same resolution of 10 July 1975 Parliament called for the implementation of constructive measures which would enhance the sense of common destiny among the citizens of the Member States of the European Community.

Particular attention was paid in the discussions to the proposal for the possible accession of the European Community to the European Convention on Civil and Political Rights. This proposal received the full backing of the representative of the Council of Europe, who also submitted a document which, together with this report, has been referred to the office of the President.

Irrespective of the outcome of the Round Table debate, the writer takes the view that, with only a few months to go before the elections, the European Parliament is not in a position to take further action on the two matters discussed. For, with these elections in prospect, in which quite a few of the present Members of the European Parliament will be involved, the work of the Assembly and its committees will be confined to the most urgent business and matters that can be dealt with easily. It should also be borne in mind that in the remaining months before the elections there will also be two holidays: Christmas and Easter.

It is to be hoped, however, that — as promised by Mr von Dohnanyi — the Council of Ministers will be able to adopt before the elections some of the measures proposed in the resolution of 16 November 1977, among which the right of petition, as recommended by Mr Bayerl and already set forth in paragraph 1 of Parliament's resolution.

The office of the President will also consider whether a 'manifesto' addressed to the electorate should be drawn up by the outgoing Parliament, in order to stress, in the light of the themes discussed, that the European Community is not merely an economic entity, but has an essential role to play in promoting the rights of its citizens.

Mr Bayerl, in his capacity as rapporteur to the Round Table, has suggested to the writer that

the relevant documents should be transmitted to the Political Affairs Committee and the Legal Affairs Committee for possible action on their part.

With respects.

The chairman of the Round Table
(Sen. Mario SCELBA)

Rome, 10 November 1978

ANNEX

Resumé of the most important points which, at first sight, seem to call for a regulation in the event of the accession of the European Communities to the European Convention on Human Rights

(submitted in a personal capacity by Professor H. Golsong at the Round Table held by the European Parliament in Florence on 27 October 1978)

An additional protocol to the European Convention, to be ratified by the Contracting Parties to the Convention, should embody provisions on the following points:

1. The Community as such may become a High Contracting Party to the Convention, as amended by Protocols Nos 3 and 5 thereto, by depositing an instrument expressing the Community's assent to being bound by the Convention.

The Community may enjoy the same option in respect of Additional Protocols Nos 1, 2 and 4.

2. It is to be understood that the term 'jurisdiction' in Article 1 of the Convention relates, as far as the Community is concerned, to the acts adopted by the Community in the exercise of its statutory powers.
3. The restrictions authorized by the Convention as regards the exercise of the rights secured by Articles 8, 9, 10 and 11, encompass, as far as the Community is concerned, the defence of the integrity of the Community's legal system.
4. In Article 13 the word 'Community' should be inserted before 'national authority'.
5. In Article 17 the words 'and the Community' should be inserted after 'State'.
6. If it is wished to increase the membership of the European Commission of Human Rights consequent upon the accession of the Community — and, personally, I do not

consider this necessary — Articles 20 and 21 should be amended and also specify that the Community member must be appointed by the Community, not elected by the Committee of Ministers of the Council of Europe.

7. In Article 28 the word 'States' should be replaced by 'High Contracting Parties'.
8. In Article 30 the words 'States concerned' should be replaced by 'High Contracting Parties'.
9. In Article 31(1) the words 'State concerned' should be replaced by 'High Contracting Party concerned'.
10. In Article 31(2) the words 'States concerned' should be replaced by 'High Contracting Parties concerned'.
11. A new Article 40a should be inserted as follows:

'The Community shall appoint for each case brought before the Court and which concerns it an *ad hoc* judge. To this end, the second sentence of Article 38 shall not prevent the appointment of an *ad hoc* judge having the same nationality as an elected judge'.
12. In Article 48 the term 'national' covers, as far as the Community is concerned, any person who is a 'national of a Member State of the Community'.
13. In Article 64 the words 'Any State' should be replaced by 'Any High Contracting Party'.

It would also have to be made clear in such a text that, at Community level,

1. the accession of the Community to the Convention would not confer on it powers not specified by or resulting from the Treaties establishing the Communities;
2. Article 13 would not oblige the Community to create appeal machinery which does not already exist in the Community's legal system;
3. The Community, in acceding to the Convention, would make a formal declaration to the effect that the notion of 'national origin' (Article 14) does not prevent it from making, where Community needs so require, objective distinctions between persons possessing the nationality of one of the Member States of the Community and nationals of other States, in favour of the latter;
4. In all cases in respect of which a report is drawn up by the Commission pursuant to Article 31, and in which the Commission states its opinion that a breach of the Convention has been committed, only the Court — and not the Committee of Ministers of the Council of Europe — would give a final ruling.

REPORT

of Mr M. Scelba drawn up on behalf of the Political Affairs Committee

on the granting of 'special rights' to the citizens of the European Community in implementation of the decision of the Paris Summit of December 1974 (point 11 of the final communiqué)

At the Paris Summit of 9 and 10 December 1974, the Heads of State or Government decided that a 'working party will be instructed to study the conditions and the timing under which the citizens of the nine Member States could be given special rights as members of the Community' (point 11 of the final communiqué).

The Commission of the European Communities drew up a report on the implementation of this point of the final communiqué (COM [75] 321 final) during the course of 1975.

By letter of 3 October 1975, the Political Affairs Committee requested authorization to draw up an own-initiative report on the matter.

The European Parliament gave its authorization at its sitting of 12 January 1976, the Legal Affairs Committee being asked for its opinion.

The Political Affairs Committee appointed Mr Scelba rapporteur at its meeting of 24 February 1976, and considered the present motion for a resolution at its meetings of 23 and 24 February 1977, 17 and 18 March 1977, 16 and 17 May 1977, 12 and 13 July 1977, 22 and 23 September 1977 and 20 October 1977.

At the last of these meetings, the Committee adopted the present motion for a resolution by 10 votes to 3, with 2 abstentions.

Present: Mr Alfred Bertrand, chairman; Mr Johnston, vice-chairman; Mr Scelba, rapporteur; Mr Bangemann, Lord Brimelow, Mrs Cassanmagnago Cerretti (deputizing for Mr Colin), Mr Fletcher-Cooke, Mr Martinelli (deputizing for Mr Granelli), Mr Mitchell, Mr Patijn, Mr Prescott, Mr Rippon, Mr Seefeld, Mr Sieglerschmidt and Mr Zagari.

The rapporteur will make an oral explanatory statement.

The opinion of the Legal Affairs Committee is attached.

The Political Affairs Committee hereby submits to the European Parliament the following motion for a resolution:

Motion for a resolution

on the granting of special rights to the citizens of the European Community in implementation of the decision of Paris Summit of December 1974 (point 11 of the final communiqué)

The European Parliament,

- having regard to the decision of the Conference of the Heads of State or Government of December 1974 on the granting of special rights to citizens of the Community, and the preliminary study by the Commission of the European Communities published under the title 'Towards a citizens' Europe',
- emphasizing the political importance for the development of the European Community — not least with a view to direct elections in 1978 — of strengthening the ties of solidarity among its citizens by granting special rights falling within the category of civil and political rights,
- whereas European Union should lead progressively to profound changes in the civil and political status of Community citizens,
- recalling its resolution of 10 July 1975 on European Union,¹ in which, *inter alia*, it expressed the hope that, with a view to giving the peoples of the Community a sense of common destiny, a 'charter of the rights of the peoples of the European Community' will be drawn up and that 'practical measures capable of contributing to the development of a European Community consciousness will be adopted',
- having regard to the Tindemans report,² which considers that not only the acknowledgement of Community citizens basic rights, but also protection of those rights by the Community are 'essential' for the development of the Community,

¹ OJ C 179 of 6. 8. 1975, p. 28.

² See Doc. 481/75.

- whereas, in order to ensure the equality of Community citizens in the enjoyment of civil and political rights, these should be protected not only against acts by the Community organs, but also against acts by the national governments, as is already the case for economic rights,
- considering that the civil and political rights to be protected should be defined with reference to the solemn declaratory acts and documents which form part of the common heritage of all the Member States,
- considering that uniform application of these civil and political rights can be adequately ensured by intervention by the Court of Justice of the European Communities,
- whereas, in order to facilitate the necessarily gradual recognition of the equality of Community citizens in the enjoyment of civil and political rights, both at the level of the Community as a whole and within each individual Member State, it would appear advisable to lay down the necessary measures in Community regulations,
- having regard to the report of the Political Affairs Committee and the opinion of the Legal Affairs Committee (Doc. 346/77),

Requests the Commission of the European Communities

1. To draw up proposals relating to special rights, in the light of the above preamble and recitals, and as a first step towards European Union.
2. To press for an agreement between the Member States, on the basis of Article 235 and, possibly, Article 236 of the EEC Treaty, under the terms of which:

the following would be considered — in the light of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948 — as integral parts of the Treaties establishing the Communities:

- (a) the European Convention on Human Rights of 4 November 1950 and subsequent Protocols;
 - (b) the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on 19 December 1966;
 - (c) the civil and political rights provided for in the constitutions and laws of the Member States.
3. To consider the following among the rights to be granted as a matter of priority to Community citizens:
 - (a) Community protection for civil and political rights equivalent to that provided for in the Treaties establishing the European Communities for economic rights.

The legal instrument introducing Community protection for civil and political rights must also make provision for rules to govern the respective roles of the Council, the Commission and the Court of Justice of the European Communities in this field;

- (b) the rights proposed in the Tindemans report and first and foremost the right for individuals to appeal to the Court of Justice of the European Communities;
 - (c) the right to submit petitions;
 - (d) the right to stand for and vote at elections and to hold any public office for which they would normally be eligible at local authority level;
 - (e) the right of Community citizens who have been resident in a Member State for at least ten years to stand for and vote at elections and to hold public offices for which they are eligible in all regional administrative authorities between local authority and State level (departments, provinces, counties, regions, etc.);
 - (f) the right to stand for and vote at elections for political office, for Community citizens satisfying special conditions;
 - (g) all the rights connected with the right to stand for and to vote at elections, and in particular the freedom of assembly and association;
 - (h) equality with citizens of the Member State in which the Community citizen concerned resides as regards the assertion of rights and access to offices and posts in the professional, social and economic sphere, if necessary after a suitable period of residence;
 - (i) the right to belong to a trade union;
 - (j) the right of residence for all Community citizens showing evidence of possessing sufficient means of subsistence;
 - (k) the right of Community citizens to use their mother tongue and to choose freely lawyers from any Member State for their defence in court actions;
 - (l) the right of Community citizens to open private schools and to teach and study in them under the same conditions laid down in respect of nationals.
4. Instructs its President to forward this resolution and the report of its committee to the European Council, the Council and Commission of the European Communities and to the Parliaments of the Member States of the Community.

Opinion of the Legal Affairs Committee

On 29 April 1976 the Legal Affairs Committee appointed Mr Bayerl draftsman.

It considered the draft opinion at its meetings of 21 January and 29 March 1977 and adopted it unanimously with four abstentions at the latter meeting.

Present: Mr Jozeau-Marigné, acting chairman; Mr Riz, vice-chairman; Mr Bayerl, draftsman; Mr Alber, Mr Albertine (deputizing for Mr Zagari), Lord Ardwick, Mr Bangemann, Mr Durand (deputizing for Mr Geurtsen), Mrs Ewing, Mr Fletcher-Cooke, Sir Geoffrey de Freitas, Mr Kunz, Mr Masullo, Lord Murray of Gravesend, Mr Pianta, Mr Rivierez, Mr Santer, Mr Scelba, Mr Schmidt, Mr Shaw, Mr Sieglerschmidt and Mrs Squarcialupi.

A — Introduction

1. Pursuant to point 11 of the final communiqué of the Summit of Heads of State or Government held on 9 and 10 December 1974, the European Council set up a working party in July 1975 to 'study the conditions and the timing under which the citizens of the nine Member States could be given special rights as members of the Community'.

This involves firstly the question as to what special rights the Member States can grant citizens of the Community and secondly what rights citizens of the European Community have *vis-à-vis* the institutions of the Community and in respect of Community law.

2. In its opinion on this matter the European Parliament must place particular emphasis on the protection of the rights of Community citizens. It has already considered the question of the pre-eminence of Community law and the protection of basic rights in connection with the ruling given by the German Federal Constitutional Court on 29 May 1974 (2 BV 1 52/71). At that time Parliament advocated that supranational Community law should take precedence notwithstanding procedures in national courts to ascertain whether regulations conformed to national law since there was adequate protection of basic rights by the European Court of Justice. Moreover, on 15 June 1976 the European Parliament adopted a resolution (OJ No. C 159, 12. 7. 1976, p. 13) in which it states that Community law is based on the fundamental rights underlying the constitutional laws of the Member States. No mention was made of the question now under consideration of the standardization of the fundamental rights of Community citizens under Community law.

3. The European Parliament has often lamented the snail-like pace of Community integration and has for too long put up with the fact that the protection and extension of the rights of European citizens both *vis-à-vis* the Community and in the individual Member States has been so neglected. Attention has hitherto been too narrowly focused on the citizen's rights and obligations as a market citizen while too little importance has been attached to his position as a Community citizen. It is the European Parliament's responsibility to point the way for the European Community to become a Community of citizens. Progress towards integration and eventually European union must be accompanied by a 'charter of civil rights', which can awaken the European consciousness of citizens and make them realize that integration is in their interests too.

The assumption of sovereign rights by a supranational organization of states is subject to the condition that a citizen should not thereby lose any of the fundamental rights which he possesses at national level; for the legitimacy of a democratic constitutional state depends on its having a constitution which lays down fundamental rights and protects the rights of the citizens *vis-à-vis* the authorities. The citizen must therefore enjoy the same legal status in the European Community, as it progresses towards European union, as in any of the Member States and the legal status enjoyed by a Community citizen in one Member State must likewise be accorded to him in all the other Member States.

After the era of the nation state, the unique development of the European Communities towards a supranational organization of states means that Community citizens will need special rights, comprising fundamental rights and civil and political rights. Whereas the will to progress with European integration, which informed the Paris Communiqué of 9/10 December 1974, led the Heads of State or Government to take account of the need to create special rights, the Commission's attitude to this basic political aim of the Community is too restrictive. Parliament must therefore remain the driving force behind the implementation of this objective.

4. The European Court of Justice, too, insists that 'the protection (of fundamental rights), whilst inspired by the constitutional traditions common to the Member States, must be ensured within the framework of the structure and objectives of the Community' — Judgment of 17 December 1970.¹ This cannot simply be left to jurisprudence. The European legislator has, rather, the obligation to make the fundamental rights an essential part of the Treaties.

5. Finally, in Chapter IV — A citizens' Europe — of his report on European union, Leo Tindemans says:

'The gradual increase in the powers of the European institutions which will make itself felt while the Union is being built up, will make it imperative to ensure that rights and fundamental freedoms, including economic and social rights, are those recognized and protected. In this the Union will find confirmation of its political objectives.'

B — Special rights of the Community citizen

I. Nature of the special rights

6. Special rights are 'subjective' public rights, in other words rights which the citizen possesses as a legal subject *vis-à-vis* the State and which may be asserted at any time.

A distinction is drawn in the context of special rights between:

¹ Internationale Handelsgesellschaft, 11/70 — Reports 1970, p. 1135.

- (a) defensive rights which protect fundamental freedoms *vis-à-vis* the State (fundamental rights);
- (b) claims which citizens are entitled to make on the State, for example in respect of provision for their welfare, (civil rights); and
- (c) rights which guarantee the participation of the citizen in the State's institutions (political rights).

7. It is necessary firstly to ensure that all the constitutional rights on which the legitimacy of a democratic State depends are conferred upon the citizens of the European Community *vis-à-vis* the European Community and, secondly, to include those rights which citizens of a particular Member State possess but which have not hitherto been granted to other citizens of the Community.

The distinction made in this context by the Commission, in the report attached to the letter to the Council concerning the implementation of point 11 of the final communiqué of the 1974 Summit, between rights *vis-à-vis* the Community and the special rights which should be granted to Community citizens of Member States of which they are not nationals, is not justified since in both cases fundamental rights are involved and only the entity referred to (Member State or European Community) is different.

II. Fundamental rights

8. The European Court of Justice has, it is true, recognized, in various judgments, a number of important general legal principles which, as essential elements of the principles of the constitutional State, are important for the effective protection of the fundamental rights of citizens of the Community: the principle of proportionality, the need for legal certainty and the protection of confidence, the principle of a legal hearing, the obligation on States to justify their legal acts which affect the citizen and the prohibition of discrimination. The other institutions of the Community have also confirmed that fundamental rights are part and parcel of the general principles of Community law and the common constitutional tradition of the Member countries.

However, fundamental rights have not yet been explicitly incorporated into Community law.

9. In its 1976 report on the protection of fundamental rights, the Commission refers to an article of the EEC Treaty and to judgments of the Court of Justice in which general legal principles are recognized, and points out that fundamental rights constitute an essential element of Community law. However, this by no means detracts from the need to enshrine fundamental rights in the Treaties.

It is necessary for fundamental rights to be formally established in order to emphasize the importance of fundamental and human rights within the framework of the Community and to enable the Court of Justice to continue to develop them on the basis of treaties. It is also of vital importance for the matter of appeals regarding violations of fundamental rights, which

will be discussed below, that the citizen whose fundamental rights have been infringed by a Community act should be able to refer to established constitutional norms when bringing his case before the Court of Justice.

The proposal that the recognition and protection of fundamental rights and freedoms should be incorporated into the Treaties therefore deserves wholehearted support.

10. In view of the fact that the Human Rights Convention of 4 November 1950 has been ratified by each of the Member States and assuming that the objective in defining fundamental rights is not to achieve a minimum standard but to cover the widest possible range of fundamental and human rights, the following proposed text should be considered:

‘The institutions of the Community shall act in accordance with fundamental and human rights, which are recognized by the Community as general principles of law.

These principles of law are inspired by the legal orders of the Member States and the international agreements on the protection of human rights which are binding on all Member States.’

A text along those lines might be inserted into the Treaties.

11. The advantage of this text, with its reference to the Human Rights Convention, over a detailed catalogue of fundamental rights is at the present time that it would not prejudice an eventual constitution combined with a charter of fundamental rights and freedoms, which the future European Union doubtless needs, while some of the most important fundamental rights would thereby be written into the Treaties here and now.

12. Referring to a study by the Max-Planck-Institut, the Commission also comes to the conclusion that the method currently employed by the Court of Justice of establishing general legal axioms for the protection of human rights on the basis of the constitutional traditions of the Member States would guarantee sufficient legal protection. However, for the reasons given under point 4, preference should be given to their inclusion in the Treaties. It is therefore not possible to accept the Commission’s view that there is no need for the Community to accede to the Convention, on the ground that the fundamental rights established in the Convention should be recognized as being generally binding within the framework of Community law. Moreover, all the Member States have accepted the principle of control on the basis of the Human Rights Convention, although their constitutions offer a firmer framework for legal and parliamentary control of the State’s actions than it has hitherto been possible to establish in the Community. At the same time, the Commission’s activities are not yet subject to any parliamentary control.

13. Moreover, the Commission itself believes that an optimum degree of protection of fundamental rights must be achieved in the Community. But it is precisely because — as the Commission also notes in this context — a written catalogue of fundamental rights cannot be drawn up in the short term, owing to differences between the Member States, that an alignment with the Human Rights Convention seems more feasible at the present time, as far as the Community is concerned, and would not prejudice the eventual drawing up of a catalogue of fundamental rights, the need for which is emphatically underlined.

III. Political rights

14. Pursuant to Article 48 of the EEC Treaty concerning freedom of movement in the choice of place of employment, all workers in the Community are entitled to settle anywhere within the sphere of application of the law.

The concept of equal treatment of all citizens in the member countries necessarily entails the granting of political rights. Only equal treatment of citizens in every Member State can guarantee in the long term a democratization of the Community and contribute to its further development.

15. The most important of these rights is the right to vote. The Community citizen must be allowed to participate actively in political decision-making processes outside his country of origin. Naturally, participation in political life must not be restricted to the right to vote; the principle of equal treatment also implies that citizens of other member countries should also be allowed to stand for election to political office.

16. There are at any rate signs now of a willingness on the part of the individual Member States to grant rights of political participation at municipal level. However, the proposal to enable citizens of the member countries to participate in decision-making processes at the lowest political level within the framework of municipal electoral law should be regarded as no more than an initial step, since the creation of a political union, coupled with current pressure for the extension of democratic rights, means that citizens of the Community will inevitably, in the long term, be involved in all political decisions.

17. A logical consequence of the right to participation in political decision-making processes both by voting and by standing for election is the safeguarding of the basic freedoms. The Human Rights Convention already safeguards the right to freedom of expression and the freedom of assembly and association. In addition to these, the right to found and belong to political parties is indispensable for the effective exercise of electoral rights.

18. In this context, it is important to achieve a uniform standard within the Community with regard to the granting of political rights to nationals of other member countries.

For that purpose it will first be necessary to ascertain what political rights are granted by the Member States to nationals of other Member States, and on what scale.

IV. Political rights with particular reference to access to public office

19. Like all nation States the Member States have, on the basis of their constitutions and their laws on nationality and aliens, evolved to form closed societies of nationals, which exclude foreigners from participation in active civil rights. Moreover, the prohibition on discrimination contained in the Community Treaties is limited to the scope of the Treaty — for example, to the freedom of movement for workers and the freedom of establishment.

Although this functional integration has brought a large measure of economic and social equality to market citizens in countries other than their own, they are still denied the equal political status to which they have a right as Community citizens.

Access to public office is also a matter to be considered in connection with the question of the right to stand for election, since political rights can be effectively exercised only when they involve full participation in decision-making processes. To that extent the Commission is right to regard it as our permanent task during the development of the common market to protect and extend the freedom of citizens.

20. Nevertheless, access to public office should not be confined to offices to which the candidate may accede on the basis of general elections.

The right of access to public office also covers the whole area of public administration. It is not reasonable to reserve these offices exclusively to citizens of a particular member country when foreigners are equally qualified to hold them. Thus, in the Federal Republic of Germany for example, a Community citizen cannot even become a senior district chimney sweep, since under current law this is an official post. Community citizens cannot work in any public-law body, be it a social insurance institution or chamber of trade or commerce, although these activities are frequently connected with the economic and social sector. In this context nationalistic considerations must in time be gradually overcome in the interests of achieving a supranational solution.

21. In view of the fact that the exercise of civil rights depends to a certain extent on the citizenship of the person concerned, the Commission raises the question of dual nationality and refers to difficulties arising from the different conditions imposed in the individual Member States for the acquisition of citizenship. Here too, it is important to establish a uniform standard throughout the member countries in order to prevent discrimination. In this connection Article 7 of the EEC Treaty provides that:

‘Within the scope of application of this Treaty, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.’

However this prohibition on discrimination only benefits the market citizen. It therefore still remains to remove discrimination against the Community citizen in respect of his political rights under the Treaty law and the national constitutions.

22. In addition to the question of access to public office in the member countries of the Community, that of access to public office at Community level must also be solved. Free access to public office in the service of the Community must also be guaranteed to Community citizens under primary Community law and not only under the Staff Regulations. To this effect a text such as the following should be inserted in the Treaties:

‘Every citizen of the European Community shall be entitled to accede on equal terms to any public office of the European Community according to his aptitude, ability and professional competence. No one shall suffer discrimination by reason of his adherence to a creed or ideology.’

V. Appeals to the European Court of Justice against violations of fundamental rights

23. In his report on the European Union, Leo Tindemans proposed:

‘that the European Council should instruct the institutions to propose how best to set about this recognition and protection. The latter must at all events mean that individuals will have the right of direct appeal to the Court of Justice against an act of an institution in violation of these fundamental rights’.¹

It is a logical consequence of the granting of substantive fundamental rights to safeguard them procedurally and thus make their full exercise possible.

24. We cannot agree with the Commission in its report on the protection of fundamental rights when it states that the judicial protection of fundamental rights is adequately safeguarded by the legal guarantees contained in the Community Treaties and refers to the allegedly positive attitude towards fundamental rights shown in recent jurisprudence of the Court of Justice.

It is not enough for natural persons to be able to appeal to the European Court of Justice under Articles 173 to 175 of the EEC Treaty, to set aside a decision or to bring an action by reason of failure to act on the part of an administrative authority. Individuals are authorized to bring actions only when they are directly and individually concerned. In addition to this particular condition governing action by natural persons it should be remembered that regulations and directives, which can only be addressed to Member States, cannot be contested by individuals.

25. The enshrining of fundamental rights in Community law will ensure that the institutions of the Community are formally committed to safeguarding the major fundamental and human rights. The citizen of the Community must therefore be enabled to take his case directly to the Court of Justice in the event of his fundamental rights being violated by an act of a Community institution. The right of appeal against violations of fundamental rights is an essential legal institution for a democratic State and an indispensable one for Europe which is moving towards political union on the basis of democratic principles.

26. In this respect the call in the Tindemans report for the establishment of a right of appeal against violations of human rights merits our support. It might be enshrined in the EEC Treaty in the following terms:

‘The Court of Justice shall rule on actions which may be brought by any person on the ground that the fundamental rights granted him under Community law have been violated by an institution of the European Community.’

¹ Doc. 481/75, p. 42.

VI. Right of petition

27. Rule 48 of the Rules of Procedure of the European Parliament states that any person may submit petitions and appeals to Parliament. However, the right of petition, as an additional right of the citizen to apply to the European body which represents him, should be enshrined in the Treaties because it is a constitutional right, and is recognized as such in all democratically organized countries.

28. In this context it is relevant to note that the right of petition will become substantially more significant as soon as Parliament is directly elected and has wider powers.

29. The right of petition should not, however, be confined to petitions to the European Parliament. Citizens must be entitled to appeal to any 'competent authority'.

The right of petition should be enshrined in the EEC Treaty as follows:

'Every citizen of the European Communities shall have the right to address written requests or complaints, either individually or jointly with other persons, to the competent authorities or to the Assembly.'

VII. Conclusions

30. As far as the procedural problems involved in writing 'special rights' into the Treaties are concerned, the Commission rightly regards Article 235 of the EEC Treaty as an unsuitable legal basis since the granting of special rights does not constitute one of the objectives of the Community within the framework of the common market as mentioned by that Article. As the Commission points out, Article 236 is more relevant since it explicitly authorizes amendment of the Treaty, which is what would be involved in this case.

On the basis of Article 236 of the EEC Treaty, therefore, appropriate amendments may be made to the Treaties.

31. Chronologically, the granting of 'special rights' should be seen as linked with the direct election of the European Parliament. Steps should be taken in the Member States of the Community to ensure that, as far as possible, the abovementioned principle of equal treatment of Community citizens and integration in the host country is implemented at the same time.

VERBATIM REPORT

of the debate on Mr Scelba's report

SITTING OF 16 NOVEMBER 1977

Granting of special rights to the citizens of the Community

President. — The next item is the report drawn up by Mr Scelba, on behalf of the Political Affairs Committee, on

granting of 'special rights' to the citizens of the European Community in implementation of the decision of the Paris Summit of December 1974 (point 11 of the final communiqué) (Doc. 346/77).

I call Mr Scelba.

Mr Scelba, rapporteur. — Mr President, ladies and gentlemen, it was at the Paris Summit of 9 and 10 December 1974 that the subject of 'special rights' for the citizens of the Member States as citizens of this Community was raised for the first time. We find the following sentence in the final communiqué of the Paris meeting: 'A working party will be instructed to study the conditions and the timing under which the citizens of the nine Member States could be given special rights as members of the Community'.

The Permanent Representatives' Committee subsequently asked the Commission to examine the problems which the granting of special rights would raise. The Commission submitted its findings to the Council on 3 July 1975, the document being published under the symbolic title, 'Towards a citizens' Europe'.

By letter of 3 October 1975 the Political Affairs Committee requested authorization to draw up an own-initiative report on the matter. This was given by the European Parliament at its sitting of 12 January 1976, and on 24 February of the same year the Political Affairs Committee appointed me rapporteur.

In its letter of 3 July 1975 to the Council, the Commission gave the following definition of the phrase 'special rights' which had been used at the Paris Summit meeting:

'The special rights which it is envisaged that each Member State should grant to nationals of other Member States are certain civil and political rights; the granting of these rights would be based on a principle parallel to that on which the Community Treaties are based, i.e. equality with nationals of the host country in economic matters.'

On 9 January 1976 Mr Leo Tindemans, Prime Minister of Belgium, presented his report on European union. Under the title 'A citizens' Europe', there is a whole chapter in the report devoted to the special rights to be granted to Community citizens.

Earlier, however, on 10 July 1975 the European Parliament had already adopted the Bertrand report on European Union, voting unanimously in favour of an amendment which I had tabled. The amendment read: 'The European Parliament hopes that, with a view to giving' the peoples of the Community a sense of common destiny, a 'charter of the rights of the peoples of the European Community' will be drawn up and that practical measures capable of contributing to the development of a European Community consciousness, which have been requested for some time, will be adopted.'

In preparing the motion for a resolution which is now before the House, the Political Affairs Committee considered all the documents I have mentioned. It was on the basis of these that we drew up the proposals now before Parliament. The Committee decided to seek a prior opinion from the Legal Affairs Committee, and the opinion drafted by Mr Bayerl was adopted unanimously with four abstentions.

In the chapter of the Tindemans report entitled 'A citizens' Europe' — this is the chapter on the special rights of the citizens of the nine Member States as members of the Community — prime importance is given to the protection of fundamental rights, of which civil and political rights are an integral part.

There was a step towards meeting the proposals of the Tindemans report when the presidents of the three Community institutions — Parliament, the Council and the Commission — signed a common declaration on fundamental rights on 5 April this year. The document, which had been adopted by Parliament on 10 February, stated:

'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. 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.'

I felt I had to include this background information, not merely to complete the picture, but because it is itself total justification of the decision taken by the Political Affairs Committee. The Committee regards Community protection of the civil and political rights of its citizens against possible infringements, even by the governments of the Member States, as the foremost special right to be granted to the citizens of this Community.

This is the major point in the resolution. Mr Davignon — who as representative of the Commission played an active part in meetings of the Political Affairs Committee — also gave it his full support on behalf of the Commission.

The purpose of the common declaration signed by the three Presidents on 5 April 1977 was to reassure the citizens of the Community against the possible infringement of liberty by the political institutions of the Community. The document is primarily symbolic, since it is rather unrealistic to assume that the Community institutions, composed of representatives from nine different countries, could ever work against human rights and violate fundamental freedoms. This is why it was felt that a political pledge would be enough, and this is precisely what the common declaration is.

What should be underlined, however, is the fact that such a declaration was considered necessary despite the existence of the Treaties establishing the European Communities, which are based on the principles of freedom, and the recent decisions of the Court of Justice regarding its competence to pass judgment on human rights. But measures curtailing freedom could be passed by the institutions of the Member States, and the risk here is obviously greater in the case of national institutions than with the institutions of a Community made up of nine Member States. Measures which curtailed liberty within a Member State would create disparities among the citizens of the Community and, at worst, they could jeopardize the very existence of the Community.

It is in the Community's own interest, therefore, to have the legal right to take action against the Member States in order to protect civil and political rights. This should be permitted at least to the same extent to which the Community can intervene with regard to economic rights. These rights are enshrined in the Treaties and they are certainly less important than civil and political rights.

The equality of Community citizens in the enjoyment of civil and political rights is a cornerstone of the present Treaties. The measures outlined in the motion for a resolution are an attempt to strengthen the position of Community citizens. This is being done not merely for their own benefit, but also with the aim of strengthening the European Community.

In adopting this resolution now — at a time when human, civil and political rights are the subject of international debate, as well as being on the agenda of the Belgrade Conference — Parliament will be setting a twofold example. It will be an example both to the citizens of the Community and to the non-member countries. By adopting this resolution, the European Parliament will be indicating new ways for words to give way to action for the better protection of civil and political rights.

In order to ensure further the equality of Community citizens in the enjoyment of civil and political rights and to strengthen Community solidarity, the Commission is requested to press for an agreement between the Member States, under which the following would be considered as integral parts of the Treaties establishing the Communities:

- (a) the European Convention on Human Rights of 4 November 1950 and subsequent Protocols;
- (b) the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on 19 December 1966;
- (c) the civil and political rights provided for in the constitutions and laws of the Member States.

The resolution proposes that the uniform application of civil and political rights can be adequately ensured by the Court of Justice, particularly as the various texts are sufficiently similar as regards legislation on civil and political rights.

Another measure proposed in the resolution is that, as a result of the incorporation in Community law of the legislation referred to above, Community protection equivalent to that provided for in the Treaties for economic rights can be extended to civil and political rights, with the necessary amendments being made. The Member States are not taking on new obligations by incorporating into Community legislation the civil and political rights enshrined in their constitutions or in the conventions drawn up by the international bodies to which they belong, such as the United Nations and the Council of Europe. Indeed, Community protection will reinforce the safeguards contained in the international conventions and the Constitutional legislation of each Member State.

In any case, the safeguards provided by the international conventions have little real meaning in practice, because decisions in this field are taken by inter-governmental bodies and the signatory States are not always immediately bound by them. The political institutions of the European Community, however, are independent of the governments of the Member States and the decisions taken following any infringement of the Treaties are immediately binding on the nine governments. The constitution of the Community enables it to intervene more swiftly and effectively than other international organizations, which usually cannot act until some individual person has taken the initiative — which is not always easy.

On the basis of the principles which form the foundation of the Community Treaties, it may be that Article 235 of the EEC Treaty will have to be invoked for the implementation of the two proposals contained in the resolution, regarding increased safeguards for the equality of Community citizens in the enjoyment of civil and political rights. The Commission's legal experts are going to examine the matter thoroughly; should they find that Article 235 cannot be applied, they will propose that the Council use Article 236. Whatever the decision, the final legal text will require no more than two or three articles to lay down the specific powers for each institution. These are already laid down in the Community Treaties where economic rights are concerned. In brief, we want to extend Community powers over economic rights to include also civil and political rights.

Since the resolution clearly states that the legal instrument must define the roles of each institution, it is my opinion that the division of powers could be along the following lines: the Council could act in legislative cases, and the Commission in administrative cases, although the Commission would retain the right of initiative *vis-à-vis* the Council, and in more serious cases the opinion of Parliament could be sought.

I also feel that the Court of Justice should issue a binding opinion before the Council and the Commission adopt measures to protect civil and political rights. Individuals, the Council or the Commission could appeal to the Court, which would have to decide whether the case before it in fact constituted an infringement of the common civil and political rights of the Member States.

The resolution expressly calls for the recognition of the right of individuals to appeal to the Court of Justice when measures introduced by a national government are regarded as

threatening civil and political rights. Appeals of this nature are already permitted in the case of economic rights and the Court of Justice has constantly upheld the principle that an appeal of this kind is warranted if economic measures introduced by a national government infringe the fundamental rights recognized by the Community Treaties, international conventions and provisions common to the constitutions of the Member States. We feel however, that official action by the Council or the Commission would be more effective and meaningful. Such action is already possible in the case of economic measures introduced by the Member States.

The resolution also requests the Commission to draw up proposals, to be examined by the Council of Ministers, relating to a number of other, expressly defined special rights. These rights, which are to be granted as a matter of priority, include those outlined in the Tindemans report: the right to vote and to hold public office at various levels between local authority and State level, and the right to stand for and to vote at elections for political office; all the rights connected with the right to stand for and to vote at elections; the right of access to offices and posts in the professional, social and economic sphere; the right to belong to a trade union; the right of residence; the right of Community citizens to use their mother tongue and to choose freely lawyers from any Member State for their defence in court actions; the right to open private schools and to teach and study in them under the same conditions as laid down in respect of nationals; and the right to submit petitions.

The right of Community citizens to belong to a trade union comes under civil and political rights, but it is specifically mentioned in the resolution in order to emphasize the social nature of the Community.

In considering the right of residence, we qualified this by saying that it should be restricted to Community citizens showing evidence of possessing sufficient means of subsistence. This was done to meet the objections of those who feared massive emigration towards Member States with a more generous social security system.

The right to submit petitions already exists in practice, but it is included in the resolution in order to give it constitutional backing.

Recognition of the rights listed in the resolution will naturally require a set of Community regulations designed to establish the conditions, timing and method of introducing them in the Member States, on all of which the European Parliament will be called on from time to time to give its opinion.

There is no one who realizes more than I that the proposals in this resolution cannot all be dealt with promptly by the Council of Ministers or the governments of the Member States, and they can certainly not be adopted in the few months remaining before the direct elections to the European Parliament. The Political Affairs Committee nevertheless decided to submit the resolution to the House for a number of political reasons which are also sufficient grounds for adopting the resolution.

Firstly, throughout the years it has existed the European Parliament has always felt that one of its basic tasks was to promote the cause of European integration, even though its efforts have not always met with success. To take only the major achievement, I feel I can say that the

decisions on a directly elected Parliament would never have been taken but for the initiative and insistence of this House.

Secondly, as the elections draw near, it is becoming more and more important to show the idea of European integration in its true light, and to let everyone share in the immense potential which the European Community has to offer. The stock image of a European Community based on trade and technocracy does not correspond with the thinking which inspired the idea of European integration, or with the aims of the European Community.

The citizens' Europe — which the reports by the Commission and Mr Tindemans refer to — will achieve its fulfilment with the direct elections, but a citizens' Europe also means a Europe in which the citizens know and feel that they are part of one political family, where to start with they at least have equality in the enjoyment of civil and political rights, properly safeguarded. The citizens' Europe, in the true sense, will take several generations to establish, but the goal will never be reached if we do not move in that direction, taking advantage of the forward-looking ideas of the day, even though their development may be no more than gradual. And we shall never have a citizens' Europe unless our citizens all enjoy the same fundamental civil and political rights and unless, at the same time, they are all protected in equal measure against infringement of these rights — infringement not only by the Community institutions, but also by the institutions of the Member States.

In making the equality of Community citizens and the protection of their civil and political rights the prime concern of the European Parliament, we are endowing the policy of European integration with the highest ideals and giving the European Community a human face. The resolution before the House therefore takes on an additional meaning as a message to our European citizens. This message goes out especially to the young people who do not know which way to turn, lacking ideals, and who have been led astray by the resurrection of the false god of violence and by doctrines which, while promising to free men from slavery, merely transform entire nations into the tools of an autocratic minority. We must convince our young people that a united and free Europe is a fine and noble ideal worth striving for, and that if this ideal is attained their hopes for a new and better outlook will be realized. The resolution is also intended to strengthen the European Community, since it is based on the foremost ideal of human dignity and makes concrete proposals to reinforce the protection of civil and political rights within the Community. It shows the path to follow if we are to turn the citizens of the Member States into citizens of the Community.

I feel I can say, without any exaggeration, that this resolution, tabled by the Political Affairs Committee and supported by the Legal Affairs Committee and the Commission of the European Communities, is a document which if adopted will bring credit to this House which is now nearing the end of its mandate.

Furthermore, this resolution is — and is intended to be — an act of faith in the future of a united, free, democratic and truly social Europe. For these reasons, ladies and gentlemen, may I ask you to vote in favour of it.

(Applause)

President. — I call Mr Patijn to speak on behalf of the Socialist Group.

Mr Patijn. — Mr President, on behalf of my Group I should like to thank Mr Scelba most sincerely for the report which he has presented to us and for all the effort which he has devoted to it in the past few years. I should also like to thank my friend, Mr Bayerl, the draftsman of the opinion of the Legal Affairs Committee who would also have spoken but unfortunately cannot be present.

His report, together with the Scelba report, was also a very valuable contribution to our discussion.

After yesterday's debates on terrorism and European elections we are now discussing the people of the European Community.

In the European Community we have a tendency to deal at great length with structures, the economic order and with the large concern with world-wide commitments and to write splendid documents on them. But we have not been so terribly good and not so terribly active when it comes to finding out exactly what the European citizens actually expect of the European Community and this is exactly what the report is about. When we talk about special rights for the citizens of Europe, we are in fact doing so 25 years too late, because at the time we are talking these things should already have been put into practice.

Of course, this also has to do with the fact that we are not laying the first brick on a totally undeveloped site. All the countries of the Community recognize human rights, all are signatories to the Universal Declaration of Human Rights and have signed the 1950 Treaty of Rome and other human rights agreements fostered by the United Nations. We must go beyond the stage of formalities though, and ensure that these rights are actually put into practice by the authorities of the Member States.

But there is more to it: we are concerned here with the situation in which the Community now finds itself, not only with political and fundamental rights. This is what we are dealing with today. But I think — and this is something which my Group wishes to stress — that, since there are more than 6 million unemployed in the Nine, the citizens of the Community will first of all ask: what are our social rights, can the Community give us work, can we expect help from Brussels to improve our economic and social situation? With today's widespread unemployment, the right of women to work is all too quickly forgotten and was not mentioned in the report. I think that these rights have their place in a Community which concerns itself with economic and social policy.

Much of what the citizens of Europe expect from us is not so much in the field of fundamental and political rights, but in the field of social rights. It is true that in the nine Member States political and civil rights have, for the most part, been realized. I have just said something about that.

Nevertheless, when we speak in this House about incorporating the European Convention and the United Nations human rights agreements into Community Law, we are actually doing something positive, since we are giving a formal and legal definition to something which already exists in practice. Indeed it is up to the Community to ensure that human rights are upheld. In the Community of the Nine we should be able to state that this is our concern.

But I should like to ask Commissioner Davignon what we are going to do now. This creates a very great obligation, since we are not alone. Soon there may be 12 of us. This means that the countries which have not yet signed the 1950 European Convention of Rome will, by their very acceptance of EEC membership, have to sign at the same time the European Convention on Human Rights; that this must be included in the negotiations with Greece, Portugal and Spain; whatever country wishes to become a member of the European Community will have to be directed to Strasbourg to sign the European Human Rights Convention if it has not yet done so. I should like to ask the Commissioner if he agrees with me that this must be an essential element in the negotiations with the applicant countries. At the moment this applies to three countries, but for other countries also this must be an essential element. Perhaps not the most difficult element, I admit, but an essential one. If we adopt the approach proposed in the report, it places a very great responsibility on our own countries and on the countries of those who with us in the European Community wish to maintain human rights. If we are going to put our signatures to all these documents and incorporate them into Community law, the Commission as guardian of the Treaties will have to consider it one of its duties to take action whenever there are violations of human rights. If such violations come to light, it will also, for its part, have to state its position on the matter in order to extend in this way its role of guardian of the Treaties to cover the area we are now dealing with. That is no small task, for we are running the risk of being accused straight away of interfering in a country's internal affairs. But just as the Commission as guardian of the Treaties must act within the scope of their provisions in order to put a stop to contraventions, it must, if we incorporate the human rights conventions into Community law, also fulfil its task as guardian in that respect. This means that the Commission must be active in supporting the maintenance of human rights. I put this question to Commissioner Davignon and hope to receive an affirmative answer. This gives the Commission a new and truly political task. But knowing the spirit in which Commissioner Davignon has cooperated with us in this report, I also know that the Commission is willing to assume this task, since it is an important and essential one for the European Communities.

On the whole I would say that we in the nine Member States are able to deal competently with civil, human and political rights. However, we have already stated on many occasions in this House that anyone who wishes to do business with us or conclude agreements with us must accept the maintenance of human rights as one of the essential elements of this Community. Human rights and civil rights are an article which we must do our best to export. This requires an active policy on the part of our Parliament and the European Commission, even with regard to Africa and countries elsewhere in the world where human rights are being trampled underfoot. We cannot say that we should maintain human rights for ourselves and adopt a fine report on the subject, only to close our eyes to what is happening elsewhere in the world. The maintenance of human rights is an export article. That is the way it must remain, it concerns humanity and is thus a concern of the club of democratic countries which make up the Europe of the Nine.

We might of course be tempted to try and be more Catholic than the Pope and simply make the achievements of the United Nations and the European Convention of 1950 part of EEC legislation. I think that we have rightly opted for a different course of action. The danger is that if we were to do the former, certain aspects would be omitted, we would interpret certain points in our own way and add things of our own. I think we are wise to use this convention as a reference with a view to ensuring that a standard legal interpretation of universal rights is also universally adopted. There is no difference between what the Council of Europe, the

Commission of Human Rights and the Court of Human Rights in Strasbourg are doing and what we hope to achieve. We must all take the same line. If not we run the risk of growing apart. For this reason, I think it is good to refer to these documents, but it would not be good to take them over word for word and subsequently put our own interpretation on them. However, we are not starting from scratch. The way has been paved by the Court of Justice in Luxembourg which, in a number of judgments, has performed excellently the function assigned to it in the European Community as far back as 1952 and which consists in acting not only as a guardian to ensure that the laws are duly respected, but as a catalyst for developments in Community law. The reason we are speaking here of incorporating provisions relating to human rights in the Treaties, is that we know we are obliged to do so in view of what the Court of Justice has already done. The Court has set a course which we must follow. What the Court has done in the field of jurisprudence we are doing in the field of legislation. This is the task of the legislator, this is the task of the Commission, Parliament and Council.

And now a few general points. This is, of course, not an exhaustive report dealing with all aspects of human rights. One thing, however, is undoubtedly very important. We must make it clear that this report is not a complete list of the matters to be discussed, but merely mentions some of the most important issues dealt with at the Summit — on which Mr Scelba has already spoken — and in the Tindemans report and other reports on this matter. However, there is no point in summarizing all these points unless we are prepared to extend the right of the individual to see to it that these rights are upheld. I think it would be a very good thing if the Commission made new proposals for individual right of appeal for the citizens of Europe, in order to make it easier for the citizen to ensure that his rights, including his social and economic rights and his rights by virtue of his nationality, are respected. Currently, the possibilities offered by the EEC Treaty are extremely limited, which means that the Court is forced into a limitative interpretation of them.

There is no need for us to compare the interpretations of Article 173 and other articles of the EEC Treaty in detail here.

We know what we are talking about. We have established free movement of workers. By means of Article 7 of the Treaty we have prohibited discrimination on grounds of nationality, but now we must also extend the right of the citizen to have this principle maintained by a Court of Law. We cannot, therefore, accept the reservation on this point contained in the Treaty. I hope that the Commission will consider submitting proposals on this matter in order to make clear where these rights could be extended and how this should be done, and that it will begin a dialogue with Parliament.

One of the reasons for bringing up this point, and this is my final remark, is our project for next year which we discussed in detail late last night. I am referring, of course, to the European elections. Next year we will have enough trouble as it is trying to persuade the citizens of Europe to go to the polls for a Community which spends all its time doing the Echernach dancing procession — two steps forward, one step back, two steps forward, one step back, and frequently one step forward and two steps back. If we ask the public, 'Are you intending to vote for a Parliament for the Community?' many of them will laugh and say 'Does this mean we will have to go to the polling stations?'. The European Community is involved in a mere 10 % of the activities of the national governments and even makes a poor job of this. We

are all to blame, but this is a fact. Now we are intending to set up a Parliament and call the voters to the polls for this 10 %.

In a situation like this we must at least be able to show that the European Community will do more than others to protect the rights of the citizen of Europe and that we intend to make it possible for him to ensure that these rights are upheld if he is subjected to discrimination or if his social, economic, political and civil rights are not respected. This will require a great deal of concentrated effort with a very tight deadline, and if we fail in this, citizens will really be justified in wondering whether or not there is any point in their going to the polls next year. This report is therefore a good one and has come at an appropriate time.

We have the efficient cooperation between Mr Davignon, the European Commission, the rapporteur, Mr Scelba, who has put in some very hard work, and Mr Bayerl, the draftsman of the opinion of the Legal Affairs Committee, for this report. It might appear to be merely a question of legal technicalities and as such of little importance, but if we can translate this report into action and do something to ensure that the rights of the citizens in Europe are really upheld, it might become apparent many years from now that it was one of the most important reports ever discussed in this parliament.

(Applause)

President. — I call Mr Jahn to speak on behalf of the Christian-Democratic Group.

Mr Jahn. — Mr President, ladies and gentlemen, I should like to begin by thanking our colleague, Mario Scelba, for the excellent report which he has submitted to us. We all know him and his total devotion to the European ideal. He passionately believes in promoting integration. This is reflected in the long and strenuous efforts he has devoted to this report on the granting of special rights to the citizens of the European Community in accordance with the decisions taken at the Paris Summit in December 1974.

My group is convinced that we, the Parliament, must do everything in our power to implement the decisions taken at the Summit Conference. The question is whether this Parliament is prepared to play its part in a dynamic process, laying claim to rights which lie in the logic of contemporary developments. We will have to fight, as we have successfully done in the past, to obtain further responsibilities for Parliament in addition to those laid down in the Treaties.

When Mr Scelba takes the 1974 Paris Summit as his starting point, he is well aware that we must also take the Tindemans report fully into account, and especially the section on a citizens' Europe.

Tindemans' remit from the Council was to make proposals on means of progressing towards a European Union. It is now for us to discuss these proposals and to seek to give them substance step by step in the form of resolutions, and I hope also regulations.

As we progress towards political union we must, as Mr Scelba attempts to do in his report, clearly delimit and define the civil and political status of the citizens of the Community. Our

task is to lay down the rights of these citizens of the entire Community, which I would not even describe as special rights, and to give practical expression to the spirit evoked in several resolutions of this Parliament by means of a citizens' charter which will create an awareness of the Community dimension. Having established the basic rights of Community citizens, our task is then to ensure the defence of these rights throughout the Community.

It is therefore not surprising if the first aspect to be considered is full implementation of the UN human rights convention, the supplementary resolution of the General Assembly of the United Nations on 19 December 1966, which was quoted by Mr Scelba, and the European Human Rights Convention. These were signed and ratified by all countries, and I believe that they provide a broad basis for establishing human rights throughout the entire Community. There is no need here for any new form of words, but it is clear from present-day discussions that if human rights were only properly realized, man would enjoy the freedom he desires both as a social being and as an individual. We consider that the civil and political rights embodied as basic rights in the constitutions of the Member States should as a matter of course be regarded as common to all citizens in the Community.

Our motion for a resolution, however, goes one step further. We make it clear that we do not wish to safeguard only economic rights but also civil, i.e. political rights, and we consider that the Community institutions have a part to play. We take the view that citizens must have the right to appeal as individuals to the European Court of Justice and to petition the European Parliament.

There is no doubt that the move towards the granting of voting rights in local elections is a major step forward. As a result of the discussions so far held in all Community countries, we know that it will not be easy to have this step ratified, especially as it must be clearly established that the citizen can have the right to vote or stand for office in only *one* locality or region. If this can be achieved, part of the European identity will have been forged. As we advance along this road, the next step is conferment of the right to vote and to be eligible for election and of course also recognition of the right of assembly and association.

In the past, my group has made a very thorough study of the question of equal rights for those citizens who have settled and taken employment in one Member State but have their voting rights in another, their country of origin. The problem is particularly acute as so many elections are held in Europe, and it is nonetheless felt desirable that such people should be given the opportunity — whatever the system adopted — to vote in their own country.

My group is well aware that enjoyment of rights and eligibility for office in the occupational, social and economic spheres is possible only after a thorough scrutiny of all the preconditions. Particular importance attaches to the length of stay in the host country and the wish to become temporarily or permanently resident. It is then natural that such citizens should be entitled to join a trade union, an employers' association, a small firms association or a farmers' organization and to enjoy the full rights of membership. In my view it is a logical consequence of our constitutions and constitutional philosophy that the citizen who moves from one country to another must be free to choose his educational institution, his school and also to found private schools.

Ladies and gentlemen, what is proposed today is a step forward, a step in the right direction, a step, too, towards the extension of the responsibilities of this Parliament and towards the

political union which will be achieved only by involving the citizens of the Community. It also contributes to safeguarding the basic rights of our citizens. The Christian-Democratic Group will be pleased to vote in favour of the resolution.

(Applause)

President. — I call Mr Berkhouwer to speak on behalf of the Liberal and Democratic Group.

Mr Berkhouwer. — Mr President, I should like to take my cue from what Mr Patijn said earlier on this subject in noting that although we spent the whole of yesterday — which I would call the big political day in this Parliamentary week — discussing matters of great importance, the question we are concerned with right now is perhaps the most important item of all on this week's agenda. For ultimately, what we are concerned with here is people — the European man on the street. Our rapporteur, Mr Scelba, set a high tone for this important item of business, and I should like to pay my respects to the way he always champions this cause.

Mr President, chance would have it that both yourself and Mr Scelba are citizens of Rome. It is a most remarkable fact that, 17^{1/2} centuries later, we are now trying to bring about a situation in Europe similar to that established by the Emperor Carracalla in 212 AD when he issued an edict enabling every inhabitant of the Roman Empire to say: *civis Romanus sum*. All these people were invested with equal rights and were able to move freely through what was then Roman territory, in other words, what was then Europe. We are now far removed from that state of affairs, despite — or perhaps because of — our technological progress. So far removed, in fact, that we can hardly make use of our technology: after all, imagine what a rigmarole we always have to go through before we can make use of our ultra-modern means of transport. In the olden days, people used to move around on horseback without any restrictions on their movements.

I should like to begin by saying that we must make a distinction between fundamental human rights like those enshrined in a variety of binding and non-binding international charters beginning with the 1948 declaration of the United Nations which will soon be celebrating its 30th birthday. And then there are, of course our national constitutions in which fundamental rights are expressed in a variety of forms. We should, however, bear in mind that the citizens of the Community also have rights by virtue of their being resident in the Community. These have been dubbed 'droits speciaux' or 'special rights'. This expression is in fact not strictly correct, in that it covers in the main rights to which we are entitled as citizens of the Community, and I cannot see why they should be called special rights. They are simply the normal rights to which one is entitled as a citizen of the Community, as a 'citoyen européen', and are therefore separate from the fundamental human rights guaranteed by the various international charters or national constitutions. Perhaps this did not come out particularly clearly in the report. My honourable friend Mr Jozeau-Marigné will be dealing with the legal aspects of this question at a later stage. As far as human rights are concerned, the Court of Justice has frequently pronounced basic rights to be an integral part of the rule of law in the Community, and a case is now being made for these rights to be incorporated as such in the Treaties, with the additional possibility of granting private citizens the right to appeal. We shall be hearing shortly which method appears to be best suited to this purpose. I am in favour of anything designed to make it easier to exercise one's basic rights. Mr Patijn just said that basic rights could perhaps be looked upon as an exportable commodity. I would say that basic

rights should be regarded as a universal commodity. What we have to do is to ensure that they are respected throughout the world, without our having to export them. We could perhaps also say that the Universal Declaration of Human Rights — which applies to the whole world — should be made binding for the whole world, including our part of the world. There is, incidentally, no major difference of opinion between myself and Mr Patijn on this point. It may be true that, by giving the citizens of the nine Member States the individual right of appeal, we shall be getting into a kind of competitive situation. The question is how this right can be differentiated from the individual right of appeal enshrined in the European Convention on Human Rights, under which the citizens of Member States of the Council of Europe have an individual right of appeal once they have been through all the instances of their national legal machinery. We may then have a collision situation, because there would then be two paths open if we were to decide to grant an individual right of appeal within the institutional framework of the Community of the Nine or the Twelve. However, this is just a legal detail.

I should now like to turn my attention to the position of the European citizen and his efforts to re-establish the situation which existed centuries ago, so that there is a clearly-defined area within which every inhabitant can move about freely. For me, this is a matter of fundamental importance. It is intended to reach those of our European citizens who so often reproach me with the words: 'It doesn't mean anything to me. What's it all about? What am I supposed to do with this European Parliament? What am I supposed to be electing, with so many restrictions affecting me?'

The idea behind all this stems more or less from the Paris Summit Conference, in which I was myself involved in my former capacity. The French President was organizing the meeting, and I had talks with him in which we discussed the question of what topics should be dealt with at the Summit.

What I said was: If it is really so difficult to make the necessary arrangements for large-scale ventures, why don't we try to do something for the man in the street instead? Something that will make itself felt in the day-to-day life of ordinary people.

As a result, the Summit Conference came up with two things — the so-called special rights for the European citizen and the passport union. I repeat that what I should like to see is for the European citizen to be given the right to move about freely. It is strange that we should be discussing here all kinds of rights to be granted to the European citizen such as the right to stand for and vote in elections for the local council in the area in which he works. Now let's come down to earth on this. At the moment, we have not even reached the point at which the European man in the street can stay where he wants to! But isn't this precisely the most fundamental right he must be granted? As far as residence is concerned, the citizens of our Nine countries are still subject to all manner of restrictions in today's Europe. In some cases, they have to report to the police if they want to stay longer than a certain number of days, and so on. Incidentally, I am delighted to see the President of the Commission and Mr Davignon here, both of whom are so deeply concerned with this subject. Shouldn't we then take first things first?

It should be noted that the resolution calls for a right of residence for all Community citizens. A right of residence! As far as this resolution is concerned, it seems then that there is not yet such a thing as a right of residence. Note that the relevant paragraph adds — and this is why I so much welcome Mr Pisoni's amendment — '... showing evidence of possessing sufficient

means of subsistence'. In other words, you can only get a residence permit if you can prove that you have sufficient means of subsistence.

Now and again, I spend some time on the Côte d'Azur, where I have a holiday house. At any given moment then, the local authorities in the area where I have my house could ask me to prove that I had sufficient money with me, and if I didn't have sufficient money, I would just have to leave.

This is really too silly for words. Should I have run out of money, there would be no point in my applying to the Mayor of Eze, where I have my holiday house. He would then tell me to go back to the Netherlands and apply to the social security authorities in my country of origin. Is it not idiotic that — leaving all formalities aside — we should still be discussing questions like this? An ordinary citizen still does not even have an established right to live and reside in any part of the Community. There is still not even a right of residence! What more is there to say?

I have always said that every one of the 200 million men, women and children in the Community should have a simple piece of paper for this purpose, and should be able to say: 'Here are my papers . . . I am so and so . . . here I am, and here I'll stay for as long as I like, and you just try and tell me otherwise!' But we haven't got that far yet. I said in 1974 that if we really wanted to do something for the man in the street, we ought to give him a simple identity card which would enable him to go anywhere and stay anywhere within the Community. In France, this is already more or less the case, because I know that my French friends can return home from anywhere in the world and need only show a 'carte d'identité'. But if I arrive in Amsterdam from abroad, I have to show my passport! I can't even get into the Netherlands by proving my identity in some other way. Quite apart from the fact that whenever I *leave* my own country by train for Germany, I have to show my passport to the Dutch passport-control officials! That shows how far we have got.

We sit here and talk in lofty terms about this and that, and yet we haven't even succeeded in doing the simplest things. I am aware that there is a lot of opposition to identity cards, the simplest little piece of paper I can imagine; this is true of my own country, where we first became acquainted with identity cards during the occupation, when they were forced on us by an occupying power.

In Britain too, there is opposition for emotional reasons; the British feel that they must be allowed to move around in their own country without being called upon to provide evidence of their identity. That is of course a perfectly reasonable aspiration — the right to anonymity.

But however much I am in favour of recognizing a human being's right to individuality, it causes me personally no bother to have to produce a simple identity card to prove who I am, because I believe that this way we can kill two birds with one stone. The introduction of identity cards will enable us to make a greater contribution towards combating insecurity and terrorism in our Community.

There are all kinds of people around! But if you can prove that you are a European citizen, you can retain your freedom of movement. And an eye can be kept on those who can't thus prove their identity.

Two things then came out of the Summit Conference — special rights and passport union — although I should have liked to have gone much further than passport union. After all, what

has come of the passport union that was achieved? As a result of this agreement, the national authorities will be able to issue more or less identical passports. But even given this achievement, the situation is pretty depressing. Mr Davignon and I exchanged a joke or two on this subject yesterday in the lobby, but I should like to ask Mr Davignon in all seriousness to give the man in the street at least some indication of our ability to work together. After all, is it not depressing that the national administrations and chancelleries are still at loggerheads on the number of pages the passport should contain, its colour and heaven knows what else? Is that not depressing? It seems as though we can never hammer away enough at this point, because otherwise we'd never get anywhere. This European Parliament must be able to offer something to the citizens of Europe.

Mr Scelba also brought up the question of personal documents in the Political Affairs Committee — personal items such as driving licences, sports licences and the like. And speaking personally, I should like to come back to the question of postage stamps and rates of postage — yet another of my hobby horses. As Mr Scelba, we are aware of the existence of GEPT, a club for all Community postal administrations, including some members from outside the Community, such as Greece and Monaco. Is it not then a sad fact that a citizen of the Netherlands has to stick a 55-cent stamp on a letter from Amsterdam to Rome, whereas one sent from the Hook of Holland to Harwich — in other words, covering just a fraction of the distance between Amsterdam and Rome — needs a 75-cent stamp? The British, the Irish and the Danes have now been Members of the Community since 1 January 1973. Small wonder, then, that people I meet every day in my own country say to me: 'Please tell me one thing. What is the good of the European Community if it costs me almost 40 % more to send a letter to England than to Rome?' This is surely an idiotic situation! Why is this idiotic situation allowed to continue? What is the Commission doing about it? I address my words here to the British President of the Commission. This must be a matter of some concern to him as well. It is too ridiculous for words that a letter sent from the Hook of Holland to Harwich should cost almost 40 % more than a letter to Rome . . .

What do you think about this? If we are going to hold direct elections at the beginning or the end of 1978, or at the beginning of 1979, why shouldn't we be able to issue European postage stamps? Can't the nine postal administrations get together to issue a common postage stamp, possibly charging a supplement to be paid into the funds for direct election campaigns? Of course I cannot give any details as to how the scheme should work. I would greatly appreciate it if Mr Davignon were to show a positive response to this suggestion of mine. I know it is a difficult matter, but we should bear in mind the words of William of Orange: 'You don't need to be sure of success in advance before trying something'.

(Applause)

IN THE CHAIR MR ZAGARI
Vice-President

President. — I call Mr Rivierez to speak on behalf of the Group of European Progressive Democrats.

Mr Rivierez. — Mr President, whenever he was faced with a problem, one of our great French generals invariably asked: 'What's it all about?'. Mr Scelba's report is entitled 'Report on the

granting of 'special rights' to the citizens of the European Community in implementation of the decision of the Paris Summit of December 1974'. I must therefore hark back to what was said in the final communiqué of the 1974 Summit. This says that a 'working party will be instructed to study the conditions and the timing under which the citizens of the nine Member States could be given special rights as members of the Community' — and not as citizens of the Community. We must also decide what is meant by 'special rights', because the expression is not a legal concept. In none of our laws will you find a definition of 'special rights'. The Commission was therefore obliged to ponder deeply upon the scope of these 'special rights', and I think it has done a very good job, as witness this covering letter to the Council. Not being *au fait* with the preparatory work for the Summit decision, I had to make enquiries to find out what had really been meant. It was, I learned, the Italian delegation which had suggested that 'special rights' means 'the right to vote in local elections'.

It was therefore not the aim of the Heads of State or Government, in 1974, to lay down a definition of citizenship of the Community. They opted, on the contrary, for a step-by-step approach and not for a great leap forward. At the present juncture, however, when we look at what has been done, both by the Political Affairs Committee and by the Legal Affairs Committee, we are rather surprised at the title of the report on the implementation of the 1974 Summit's decision. The report should have been entitled, both by the Legal Affairs Committee and by the Political Affairs Committee, 'Report on future citizenship of the Community', because I understand perfectly well, after listening to the excellent presentation by Mr Scelba, what we are driving at. The first part of the report of the Political Affairs Committee pointed the way to the future, to the definition of Community citizenship and civil and political rights at Community level. It is therefore a report which could have been prepared in conjunction with our work on European Union and, at a later stage, Political Union.

I could describe this report, broadly speaking, as anticipatory. A position is stated as regards definition of the civil and political rights of the Community citizen at Community level, and this approach to Community civil and political rights makes no reference to national legislation. It could have been asserted that all nationals of the individual Member States of the Community are citizens of all the Member States of the Community, thus creating a single citizenship for all the nationals of all the Member States. This citizenship would have been defined by each nation, the content of civil and political rights also being defined by each nation, naturally with all the necessary references to the fundamental rights which are identical throughout the Europe of the Nine.

But a choice was made in this report regarding citizenship of the Community, namely that this citizenship will be defined, as far as civil and political rights are concerned, by Community law which itself will be safeguarded and upheld by Community bodies. You can see, therefore, that we are going a long way, well beyond the economic and social rights which we now enjoy under the Treaty, and which are safeguarded by the national laws of which they have become a part. It is only when Community law is broken that the Council, Commission or Court of Justice of the Community intervenes. So this report deals with the future. Thus, Mr Scelba is shaping the Europe of tomorrow, and there can be no doubt that this approach to citizenship of the Community deserves a major debate. These days, for example, nobody ever mentions the Court in Strasbourg, now that we have incorporated the Convention on Human Rights into Community law. You can see for yourselves that certain vital issues are not even touched upon.

We have proceeded by affirmations. There will be a citizen of the Community, whose civil and political rights will naturally be the same throughout the Community, and this Community citizenship will be supervised by Community bodies. This, then, is a political choice, and one which is understandable. Our debate, which concerns special rights and not the rights of the citizens of each Member State of the Community, is a simple approach. That the French citizen in Germany, for example, should not be a foreigner, but enjoy similar rights to those of the German citizen without being entirely like him, that is what the Summit Conference intended. We have strayed a long way from the problem! And then, at the end of the report, there is a very brief statement of various actions to be taken.

The first part of Mr Scelba's excellent oral report points a way towards political union and Community citizenship. It is therefore a document, a *de facto* statement of our Assembly, and it will give us food for thought. A choice has been made, and made without all of us having reflected on the problem, because we had not been called on to do so. It is a choice we can accept, depending on our concept of Community citizenship, or abstain from accepting at the moment, not having reflected deeply enough about the matter. We can also reject this choice, though, without this meaning that we are opposed to progress by our Community towards the Community of tomorrow — one in which all citizens will be equal in terms of civil and political rights.

This is why we maintain that this first part should not have been outlined in this report but in a special report. We need time to reflect, and we shall abstain from voting. With regard to the second part, dealing with the special rights envisaged by the Summit Conference, I consider that the report goes too far. It should have stopped at the right to vote and hold office at local level. For the rest, we should wait. But you are right to go further, because this Assembly has a right and a duty to give a lead. But it is not sufficient to reflect more deeply on these special rights. You have not considered the problem of the right to join a trade union, the problem of the right to form an association. In France, for example, a foreigner cannot form an association of foreigners without the permission of the State. The State's authorization is also required for the publication of foreign books; but should that also apply when the foreigners are citizens of Community countries? We must, therefore continue to reflect in depth.

Those, Mr President are the few observations I wanted to make. I offer my congratulations to Mr Scelba, who has opened up an avenue which leads towards our goal. But is it the right one? Should it be changed, improved? Or should it, by contrast, be approached from the legal standpoint of the Europe of nation States? We ask for time to reflect. As far as the second part is concerned, I would say you were right to point the way; but do not lose sight of present-day realities.

(Applause)

President. — I call Mr Fletcher-Cooke to speak on behalf of the European Conservative Group.

Mr Fletcher-Cooke. — Mr President, the economists are waiting impatiently in the wings for the politicians to get off the stage, and therefore I shall be short. On behalf of the European

Conservative Group, I welcome the report of Mr Scelba. He has laboured long on this task, and it must be a great feeling of satisfaction to him that at last it has come to fruition.

Like the last speaker, I have had difficulty in defining and understanding what is meant by special rights. I have been greatly helped by the document that was put out by the Commission on 2 July 1975 entitled 'the granting of special rights'. On page 6 of the English text, it is explained that special rights are not the civil rights and liberties which are generally granted to all foreigners, nor are they the economic, social political rights granted to the nationals of the nine countries under the existing European Treaties.

They are something more than that. They do not yet exist, and we are urging that they should be created. Among those for which there seems to be general support is the right to vote and stand at local elections. That seems to be generally agreed, and there are no doubt many others, some examples of which have been given by Mr Scelba in his report.

When Mr Berkhouwer mentioned to us the parallel of the Emperor Caracalla who, I think in the year 212, conveyed Roman citizenship upon all the inhabitants of the then Roman Empire, I do not think the parallel was quite as easy.

There, the simplicity of the act was evident. But, in this case, judging by the report, it is very complicated indeed. If one looks at the second paragraph of the report on page 6 — the second of the requests to the Commission — as far as I can understand from paragraph (c), what is to be considered is not merely the conferring of rights as integral parts of the Treaties, the European Convention on Human Rights and the International Covenant on Civil and Political Rights, but also civil and political rights provided for in the constitutions and laws of the Member States. By that I understand that, for example, an Englishman would, to some extent — though to what extent I do not understand — have the rights conveyed on a Dutchman by the Dutch Constitution. It would be very difficult for the Dutch to achieve a reciprocal benefit of having the rights conveyed on the Englishman by the English Constitution, there being no English Constitution. The Dutchman would not get a very good bargain out of this arrangement. As I understand it, among the notions of civil rights is the right of a citizen of one Member State to acquire the rights under the constitution of another Member State. That is a complication, the extent of which has not been altogether defined, and something which the Emperor Caracalla certainly did not have to face.

However, these are carping points. This is a broad political objective. I think it should be based quite clearly as such, and that is why I support the legal objection of the Legal Affairs Committee when it says that Article 235 is an unsuitable legal basis, since the granting of special rights does not constitute one of the objectives of the Community within the framework of the Common Market as mentioned by that article. I would much prefer, as is suggested in Amendment No 4, the substitution of Article 236 and — as I understood from the speech of the rapporteur — he himself would not object to that substitution. I think that would put us on a much firmer basis. This is an ongoing task that Parliament, Commission and Council have embarked on. It is a difficult task. It is one which we support, and we wish it a fair wind.

(Applause)

President. — I call Mr Jozeau-Marigné.

Mr Jozeau-Marigné. — Mr President, ladies and gentlemen, we have heard the views of the group spokesmen following Mr Scelba's most excellent report, and I should like to thank him most warmly. Mr Patijn spoke just now of his regret that, because he was unable to be present throughout today's debate, he did not hear the speech of the draftsman of the opinion of the Legal Affairs Committee. I too regret having missed it, and I should like to touch very briefly on one or two points raised by that committee during a discussion in which it was my privilege to deputize for the chairman, Sir Derek. When one speaks in a debate after a wide-ranging explanatory statement like the one we have heard today, it is difficult to avoid being repetitive. Nothing is more tedious for an audience than to hear variations on the theme of a prepared text. I should therefore like to keep my contribution short and say merely how much I agree with certain views expressed earlier, particularly those of Mr Rivierez. I shall confine myself to two observations of a legal nature.

They are observations of a legal nature because, as Mr Rivierez said quite rightly just now, when one is discussing a text one likes to have as precise a definition as possible. Precision is all the more necessary when one is dealing with legal terms, which must have a definite meaning in practice, and especially when one is referring in some way to a new right. Thus Mr Rivierez referred in his speech just now to the final communiqué of the Paris Summit Conference of 1974. He recalled that the suggestion made there came from a working group which was anxious that a study should be made of the 'conditions and timing under which the citizens of the nine Member States could be given special rights as members of the Community' — in this context I address myself to you, Mr Davignon, as a Member of the Commission, for there are two terms which strike me particularly, and Mr Rivierez himself has dwelt on them at length. The two terms are 'citizen' and 'special rights'.

As regards 'citizen', we note that up to now, when reference was made in Community texts to the people of the Member States, the word 'nationals' was used. And this is almost the first time the word 'citizen' has appeared. Thus, when Mr Rivierez said that we were today anticipating future developments to some extent, I think he was quite right. We wish to clear the way for an extremely important right, which we should regard today as a precursor of research into the definition of 'citizen' in comparison with 'national' — research which will necessarily be much more detailed and, if I may say so, much more delicate. The linking of the terms 'citizens' and 'special rights' may suggest to us that the will exists to confirm the civil and political character of these special rights.

But what exactly does the term 'special rights' mean? It means, perhaps, the granting of certain rights to the 'citizen' — since that word is now being used — of the Member States — rights which they do not yet possess. One cannot deny that the nationals of the Community already enjoy basic rights both in their own country and in the other Member States. Special rights are not therefore merely a form of basic rights. They are political rights traditionally denied to foreigners (for example the right to vote, the right to stand for and hold public office) at local, regional or national level.

In this context I should like to stress that Mr Scelba's report contains an assessment of the way in which basic rights are at present protected in the Community, and some suggestions on how

this protection might be improved. In my view, there is a considerable difference between basic rights and special rights, and it is indisputable that these basic rights existed much earlier. I would not use the term 'exported right' employed by Mr Patijn, the spokesman for the Socialist Group, in his speech just now, since the word 'exported' implies that something is granted to those outside a given country, whereas basic rights must be intrinsic rights of people throughout the world. And these rights must be accorded not merely in particular countries but to all human beings.

What remains for us to do? Even if a basic right knows no frontiers, we in the Community must still seek ways of guaranteeing observance of it. In everyday life confusion often exists between a right, a possible right, and proof of this right. I am afraid that a similar mistake may be made today. In my view — if I may develop this distinction for a moment — the text of the motion for a resolution before us today should not suggest that there is any questioning of the need to protect basic rights, which are now very definitely safeguarded by the Community judges. I also think that the legal guarantee thereby afforded is in present circumstances at least as strong as that which would result from the adoption of a catalogue of rights.

At this point I should like to recall that this House passed a resolution on basic rights only a year ago. I hope that it will be borne in mind that a resolution such as the one before us today should not undermine the position then taken up by this House, and that it should not change its mind, for I remain convinced that the position adopted by the Court of Justice of the European Communities with reference to the European Convention on Human Rights was satisfactory. It is, in my view, inconceivable that the drafting of a catalogue of rights should conflict with the decisions which we have taken. That, Mr Commissioner, is what I wanted to stress.

My second observation seeks to clarify the nature of the legal basis. In this context, we note the position taken just now by Mr Scelba whose report contains as an annex the opinion given by Mr Bayerl on behalf of the Legal Affairs Committee. On the other hand, his views on the legal ground were those expressed in his oral explanation, in which I heard him say just now that he thanked Mr Bayerl for giving that opinion. In asking that the resolution presented on behalf of the Political Affairs Committee should be adopted, he mentioned that the vote of the Legal Affairs Committee had been unanimous. Indeed, the Legal Affairs Committee did vote unanimously, but what was the conclusion reached by that Committee and by Mr Bayerl?

I am dealing here with the question of the legal basis. The last speaker said, on behalf of the European Conservative Group, that he supported the position of the Legal Affairs Committee. Recourse to Article 234 was excluded, and I approve of this view, but in this context I should like to quote the final remarks of Mr Bayerl's report:

The Commission rightly regards Article 235 of the EEC Treaty as an unsuitable legal basis since the granting of special rights does not constitute one of the objectives of the Community within the framework of the common market as mentioned by that Article. (. . .) Article 236 is more relevant since it explicitly authorizes amendment of the Treaty, which is what would be involved in this case.

Those are the views of the entire Legal Affairs Committee, but I should like to return to the resolution and quote its second paragraph:

To press for an agreement between the Member States, on the basis of Article 235 and, possibly, Article 236 of the EEC Treaty . . .

Can I say that such a conclusion is in accordance with the unanimous opinion of the Legal Affairs Committee? No, because in my view, which is also unreservedly shared by the spokesman of the European Conservative Group, Article 235 could not be a suitable legal basis.

Moreover, the Legal Affairs Committee thinks that the legal basis you had chosen was the correct one. I therefore conclude that a substantive error has crept into the text of the resolution of the Political Affairs Committee, or at least that is how I should like to interpret it, since Mr Scelba, in his oral explanation — for which I once more warmly thank him — said that he thought he had the support of the Legal Affairs Committee. The text should therefore aim very clearly at an agreement among the Member States on the basis of Article 236, and the words ‘Article 235 and, possibly . . .’ should be deleted to avoid confusion.

That is why, Mr President — and I ask you to forgive me for speaking so long, when I meant to be brief — I state that in my view this is only a beginning and, moreover, that the text on which we are about to vote today should not suggest that we are undermining the position taken up by the European Parliament on basic rights more than a year ago. And I would strongly advise the Commission, when it acts on the basis of this decision, to rely solely on the text of Article 236.

(Applause)

President. — I call Mr Masullo to speak on behalf of the Communist and Allies Group.

Mr Masullo. — Mr President, I think that this morning’s debate, and especially the comments made by some Members of the Legal Affairs Committee, have demonstrated the two fundamental dangers of this motion for a resolution, which Mr Scelba has presented with such goodwill and dedication. These two fundamental dangers are: firstly, the danger of confusing an ideal with the realities of a process which is under way; and secondly, the danger of initiating a highly idealistic debate which may camouflage the inability of Community structures to face up to and solve *concrete* problems. In spite of these two dangers I feel that we must express our general approval for the motion for a resolution. We must do this because to my mind the motion for a resolution, despite all its technical and legal limitations and all the constitutional and international problems, and problems of Community law, that it creates, is nevertheless a timely challenge. It is a timely challenge because, basically, the crisis which has seized the Community institutions and struck the moral and political awareness of us all is the crisis of a Community structure which recent events have shown to be no longer viable — that is, no longer viable as a Community based on pure and simple identification with strictly economic mechanisms. Our Community can only continue to be viable if it has the courage to transform its character — if, from being a Community of products, it can become a Community of people. And it is in this sense that Mr Scelba’s motion for a resolution represents a real challenge. For it reflects a real need — the need for a change in character.

The subject of direct elections to the European Parliament has quite rightly been mentioned in this debate. Clearly it will be impossible to ask the people of Europe to vote for a Parliament whose sole function is one of consultation in the management of various economic and trade transactions — for although this function is no doubt of great importance, it would, in isolation, soon become a dead end.

Mr Scelba's motion invites consideration at three different levels of three different aspects, all of which will I hope be explored by the Commission and Parliament. The first aspect to be considered is how the citizens of each Member State should benefit from the fundamental and legal rights enjoyed by the citizens of their host country. And it is in this context that we come up against the rather strange concept of 'special rights'. In this House some speakers have already pointed out that the reason for this slightly curious term is that it was originally used rather loosely, referring to the possibility of granting special rights, of particular rights, where the word 'particular' is not a definition but simply a provisional formulation. They are special rights because, as has also been pointed out in this debate, while the rights are not special in themselves, they are a special extension of the rights normally enjoyed by the nationals of a given Member State to the citizens of any other Community countries who live in that State.

The second aspect is that of the entitlement to such rights — rights which I would define as subjective public rights, as a general overall term including special rights. It will be necessary to study the nature of the rights enjoyed by the citizens of Community countries, not only *vis-à-vis* each country but also *vis-à-vis* the Community.

Then there is the third aspect of this problem, which is that it may become advisable or necessary for the Community institutions to encourage harmonization of national legislation on fundamental, civil and political rights. This is an extremely serious point, because it immediately raises problems connected with the constitutional situation in each of the Member States. For the legislation of the Member States, however liberal and democratic they may be, do not all guarantee what we call constitutional rights to the same extent, on the same scale, or with the same degree of precision. So you can see that once we start discussing this topic, a whole panorama of problems opens up in front us. Nevertheless, we are bound to say that, however complex and fraught with difficulties, they are problems which we must have the courage to face.

One speaker rightly pointed out that there is in fact no such thing as a citizen of Europe, but only citizens of individual Member States. The problem, therefore, is that of making what progress we can towards the creation of citizens of Europe. For in point of fact the term 'citizen of Europe' does not refer to *de facto* situations, but to an objective. And in this sense the motion we are discussing represents a move towards the creation of citizens of Europe.

My Group is certainly in favour of this motion for a resolution in principle, subject to the various provisos of a legal nature. But we should like to emphasize one final point — that this attempt, which is in itself no doubt worthy of appreciation and approval, to create true citizens of Europe and to harmonize the rights and legal situations of European citizens throughout the Community, is an ideal worthy of our support on one condition, and on one condition only: that this great ideal of the citizen of Europe, this great ideal of a change in the Community's character to which I have just referred, transforming it from a Community of products into a Community of people and from a purely technological and economic

Community into an ethical and political Community, can only be achieved if the citizens of Europe we are trying to create can enjoy true and not purely formal equality; and if there is true freedom from need, not only for the citizens of one or other Community country but for the citizens of the Community as a whole. Only then, when it has become a Community of free men and women — free in the real and not just the formal sense of the word — will the Community have a true meaning. It is because we see this motion for a resolution as a token of the will to create a true Europe that we give it our approval.

Let us remember one thing: never before has this ideal of a free society, a society that guarantees human rights, been in jeopardy in so many parts of the world. But we can only fight off this darkness which threatens to engulf us if we are able to show that the freedom of our democracies is a real, not just a formal, freedom. And I believe that this must be the mission of Europe as a Community. If we can succeed in taking a first step in this direction we will have done our duty as men of this country, as democrats, as citizens of a Europe which knows that its past only has any meaning if it is used to generate new strength, to open up new vistas which can serve as an example and a guide to the other peoples of the world.

(Applause)

President. — I call Mr Pisoni.

Mr Pisoni. — Mr President, ladies and gentlemen, I asked to speak only in order to explain the amendment which I have tabled, but I cannot resist the temptation to make a few very brief observations.

I have listened carefully to all the speeches and, while I wish to join in thanking the rapporteur Mr Scelba for his work, I should like also to stress that with this report and this resolution, building upon the work of the European Council and the proposals of the Commission, Parliament is giving real substance to the concept of European citizenship. It is true that European citizens do not yet exist, but for some time now we have liked to describe ourselves as such. Now this citizenship is acquiring real substance instead of being an empty word, and is being equipped with something tangible, with rights and duties ensuring liberty and quality for European citizens.

I should like in this context to draw your attention to one category of European citizens who are anxiously awaiting our resolution. They are the migrant workers for whom we have in the past called for a statute of the European worker or of the migrant worker. We have called for them to be given real protection going beyond that provided by existing regulations. We believe that for this category of European citizens, for these migrant workers who for many years have been a feature of the Community, moving from one country to another, and coming into contact with our different nations, this resolution really represents a decisive step towards effective recognition of European citizenship; we also think that this resolution may to some extent compensate for the failure so far to draw up a European statute for the migrant worker.

We are now preparing for the direct elections to the European Parliament. I think that the subject of our debate should be one of the main planks of the electoral platform we shall be

presenting to the citizens of Europe. It is only by presenting these proposals that we can give meaning to our electoral campaign for the European Parliament. This is not the only aspect of the forthcoming electoral programme, but it is the basic element of it, upon which the economic and monetary aspects can be built up subsequently; the human aspect, however, is expressed in this proposal, and we think that this is the best electoral programme, or at least an important part of such a programme.

After these very brief observations, I should like to say one word on the amendment I have tabled:

Paragraph 3(j) of the motion reads: 'the right of residence for all Community citizens showing evidence of possessing means of subsistence.' The words 'showing evidence of possessing sufficient means of subsistence' seem to me to conflict with the existing regulations on freedom of movement and on the right of migrant workers to live in the countries in which they have been working, even after that work has ceased. We would not wish it to be thought, as Mr Scelba stressed in his speech this morning — that the right to live wherever one wishes is granted only to the rich and denied to those who are not rich. And, above all, we would not wish the requirement of possessing sufficient means of subsistence to be interpreted wrongly, as giving the authorities more or less the right to investigate the private life of each citizen. That could lead to an oppressive system, especially with regard to migrant workers, who have to leave their own country and seek work elsewhere.

For that reason I have proposed that the last part of paragraph 3(j) be deleted, so that it would then read: 'the right of residence for all Community citizens.' I think that should be our objective, and I see no grounds for any fears that it might lead to large scale migration to the country in which social security is most generous. If, however, the present wording were retained, it really could give the impression that we wish to pry into the private lives of ordinary people and, even worse, that we intend to take measures which migrant workers would find oppressive.

(Applause)

President. — I call Mr Davignon.

Mr Davignon, *Member of the Commission*. — I have listened with great interest to this morning's debate and I should like to try and explain briefly the Commission's attitude to this problem from the political, technical and legal points of view. First of all, however, I must pay tribute to the work done by Mr Scelba, thanks to whose determination and perseverance we have been able today to discuss a fundamental problem.

I think, Mr President, that your Assembly was right to take up this important question, which comes at an appropriate moment in the process of considering the future of Europe. It is in fact unavoidable, as we proceed with the pragmatic business of building Europe, that we must from time to time face a number of fundamental questions. As it happens, only yesterday we discussed the political conception of the Community and terrorism — this cancer on the face

of our civilization. It is necessary for us to give thought sometimes to the type of Community we want, how it should be organized and the position of citizens within this new Community.

In doing this we naturally go beyond the exact intentions of the Heads of State or Government in 1974. I think this is justified, because it is worth considering the problem as a whole rather than one particular aspect. This is also a logical attitude, for if the recommendation of the 1974 Summit Conference had been implemented right away, with some progress to show for 1975 or 1976, we would now have been able to devote our time to a more general debate. Mr Rivierez pointed out that in 1974 it was decided to adopt a step-by-step approach; these steps have been so small that we have not moved at all!

Since nothing has happened, let us consider where the real problem lies. And here I should like to make a distinction between the different aspects raised by various speakers and place the problem in the political context which is our prime concern.

We are concerned, firstly, with the basic rights of Community citizens. The rights they enjoy at present are granted by each State by virtue of its constitution and the whole range of legal provisions applying to its citizens. We should, however, ask ourselves one question: are there not, in this Community that we are in the process of developing, a certain number of rights which should be granted to the citizens of this Europe in order to breathe life into the overall European ideal? This is the point Mr Patijn made. Should we not ensure that the rights and guarantees granted by States are identical or comparable between all the Member States of the Community? Should we not ensure that membership in a Community increases the guarantees given to its citizens? It is not a question of whether additional basic rights are to be given but of how these rights should be supplemented to take account of the existence of Europe. Once we accept this, we are beginning to accept in political terms the idea that basic rights have been built into the framework of the Community: this is the new element which lies behind the Commission's favourable opinion on this motion for a resolution. This implies that in future the framework of what the Community has achieved should include the mechanism for the protection of human rights developed under the Council of Europe and the United Nations, as well as the will to give its citizens additional guarantees over and above the civil and political rights granted national constitutions.

Admittedly, the task of transforming this political vision into a new form of Community law — as Mr Jozeau-Marigné and Mr Rivierez rightly said — is a difficult and lengthy one. But that is not the point here. I think it is thus important not to go along completely with one of the proposed amendments by saying we should just talk about Article 236. I do not think we should neglect Article 235, otherwise we would be prevented from taking such action as is already possible in accordance with this evolutionary concept that we — and the Court — have of the Treaty, namely that we should exploit all the implications of the Treaty so as to interpret it in terms of a more dynamic process of development. Let us, therefore, not dismiss Article 235 but put it on the same footing as Article 236 or even, if you like, give priority to Article 236, but without dismissing Article 235. To conclude this first point, Mr President, the essential point seems to me that the fact of belonging to a Community provides an additional guarantee for the basic rights which the citizens would enjoy in any case, whether or not they belonged to this Community.

It is then a question of ensuring that the action taken by the Community is coherent. I think

that is what Mr Patijn meant when he spoke of an article for export; he meant, I think, — and on this point we are in agreement — that we cannot talk about basic rights when discussing our actions within the Community and then ignore them when the Community is faced with other problems. This is relevant to the question of enlargement: what has been achieved under the Treaties must be respected by all States wishing to join the Community. This motion is of great importance because it declares that it will be necessary to develop the notion of European citizenship and that in the course of building Europe certain legal modifications will have to be made.

This resolution is also relevant to the overall concept of our contractual and structural relations with third countries. I shall not go into this as we shall have an opportunity of returning to the subject. The Community cannot be coherent unless it remains faithful to the basic principles on which it is founded. This, I think, is why, while recognizing — and Mr Scelba is the first to admit this — that the special rights referred to in 1974 do not correspond exactly to what we are doing now, I would regard it as wrong if no reference were made in a Parliamentary document to basic rights and why in future they will be part of the achievements of the Community although the legal basis for this is not given in detail in the Treaty.

Is the citizen in fact protected against abuses committed by Community authorities? I do not wish to go into details here, but I think it is important to note that the Court has pronounced on this matter and has recognized, in two very important judgements handed down in 1969 and 1974 respectively, that the observance of basic rights is an integral part of the general principles underlying the law which the Court upholds. This is one of the reasons why I should not like to see Article 235 replaced by Article 236 but would like to have the two maintained together. The Commission, in its 1975 report on European Union, gave a very clear opinion on this point and on the necessity of ensuring that citizens are provided with suitable instruments of protection with regard to all authorities, including those of the Community.

The next point is the definition of 'special rights'.

Without returning to the legal definition given by the Commission in its document, I should like to try and explain in simple political terms what these 'special rights' are. It seems to me that special rights are those enjoyed by citizens of the Community by reason of their belonging to an entity other than their national community. This motion takes in a large number of different questions; for example, as Mr Fletcher-Cooke pointed out, the claim to enjoy certain rights to be granted by the Member States, such as direct or indirect participation in elections at local level. It is worth noting that it is up to the Member States to grant these rights, irrespective of any convention that might be signed at a later date enshrining them in the Treaty. It will be up to each Member State to make provision in its legislation for the rules of eligibility at local or regional level (citizenship of a Community Member State, residence qualifications, etc.). And I think it is of fundamental importance to make a move in this direction, despite the difficulties that will be encountered, in order to show that the development of the Community, and the very fact that we are in the process of building this Europe, implies the ability to take part in activities which are not exclusively of a national nature. This seems to me to be consistent both with the step-by-step approach and with the idea of what it is hoped to achieve. Without a political concept of what is to be created, no progress will be made. As long as we do not progress by small steps, there is this extraordinary excuse which says that unless every citizen of the Community can become a Minister or

President in any Community State, there is nothing that can be done to show our cohesion and the convergence of our attitudes. This is the ideal excuse for not taking a certain number of steps which are possible.

Mr Berkhouwer mentioned two items of symbolic importance. He asked whether this feeling of belonging to a single community could not be created by the use of documents which made it apparent. We in the Commission — and the Political Affairs Committee agreed on this — have opposed the idea of a European identity card because, if the worst came to the worst, that would mean that citizens would have to have both a national identity card and a European identity card. This would come down to telling people that the great step forward achieved at European level consisted of being obliged to have two documents instead of one! Citizens of countries where identity cards do not exist would be surprised to find that they were to be expected to have an additional card if they wanted to keep out of trouble.

If, on the other hand, we say that the issuing of a European passport is a sign that one no longer belongs exclusively to one's national community but to a European community as well, this is an approach which the Commission regards as full of advantages. It is, after all, time the Member States abandoned these futile squabbles they have been involved in. There is now an agreement on the colour of the cover of the passport. Admirable progress after a year and a half! It remains to be seen, however, whether we are to use all the languages on the first page or just some of them, what is to be put on the second page, and so on. Every undertaking needs symbols, and a symbol such as the passport is a good thing — just as postage stamps can also play a part.

In conclusion, I should like to say that the Commission has given and will continue to give its unequivocal support to the proposed measures. It wants Parliament to continue its detailed and concrete work on the implementation of the rights mentioned in this motion. Otherwise, we shall have sounded the trumpet once but we shall not have started to build the Community which Mr Rivierez was talking about just now. We shall also have to solve all the difficulties we put in our own way whenever we want to create something new.

These are welcome difficulties, they are not the same as the problems of stagnation.

Secondly, I think it is of fundamental importance that now we are about to hold direct elections, we should demonstrate quite categorically that the Community is not a purely administrative, technocratic and economic organization but that it has a fundamental political significance. When, in the darkest days of the Cold War, the authors of the Treaty of Rome launched an appeal in the preamble to all freedom-loving countries, this demonstrated our concept of how to preserve the civilizations of the signatory countries of the Treaty of Rome. It is thus normal that we should now solemnly reaffirm the values on which the Community is built. As you know, the Commission intends to make proposals to the European Council for the ideas of pluralist democracy contained in the document on the European identity to be accepted once and for all as indispensable elements, for all present and future Member States of participation in the European Community. It is in this context that the first part of the motion for a resolution, which is based on the Strasbourg conception of human rights, must be regarded as part of the established thinking of the Community with a view to subsequent discussions on incorporating it in legal terms. We are well aware however, what effect our declarations have on current negotiations.

I think, therefore, that in this motion we have a balance between the anticipation which is indispensable for any important operation and the sense of realism which gives credibility to what we are doing. We have indicated a certain number of special rights which will show citizens what additional advantages they enjoy from membership of the Community. This, for me, is the simplest definition of special rights. We show what legal obligations the Member States have to respect basic rights, and with regard to procedure we indicate what legal form these obligations will have to take and how they are to be discussed. It is by means of consultations between Member States, the Commission and Parliament that we must try to find the necessary answers to these delicate questions. A number of speakers have said that the question raised today will rank as one of the major topics dealt with by Parliament. I share this view, provided that the members of the European Parliament agree to draw the attention of their national parliaments to the transformation that we are beginning to make, otherwise they will not realize what is happening, namely that in addition to symbols, the citizens of Europe are to be provided, in respect of the values on which the Community is founded, with guarantees which go beyond the simple national guarantees. This is neither interference in the internal affairs of the Member States nor the beginnings of a supra-national State seeking to supervise the policies of the other Member States. This development shows that we were not mistaken in 1958 when we affirmed that freedom was a basic condition for building Europe. There are times when it is worth recalling this, and today it is of particular importance.

(Applause)

President. — I call Mr Scelba.

Mr Scelba, rapporteur. — I should like to thank all my colleagues for the attention they have been so kind as to devote to the report I have drawn up. I should particularly like to thank Mr Davignon for his contribution to this debate. I will not repeat what he explained with such authority and crystal clarity in reply to the statements made by some of the speakers.

I shall merely make a number of observations regarding certain points which have arisen during the debate. Firstly, as regards the title of the motion for a resolution, I must admit that I am not happy with it myself. However, even if we had chosen a different title, comments would probably still have been made. We therefore opted for a simple, modest title so as to keep in line with the study carried out by the Commission which dealt with 'special rights', but it was not our intention to define this term precisely. What matters is, of course, the substance and not the wording. As the ancient Romans used to say, 'omnis definitio est periculosa', and for this reason we preferred the simple title we have chosen.

I have been asked how we will be able to ascertain whether the various provisions are interpreted in the same way? Well, as I said in my first speech — and I also stated this explicitly in the motion for a resolution — it is up to the Court of Justice to establish the common criterion. There is then no risk of a conflict, particularly as talks are already underway between the Court of Justice and the Court of Human Rights in Strasbourg with a view to finding areas in which they can cooperate and coordinate their activities. It is therefore up to these two Courts to make the necessary provisions for ensuring that these rights are duly applied.

Mr Patijn made the observation, which was taken up by Mr Masullo, that no mention has been made here of social rights. If we had gone into this specific aspect too, we would probably have departed too far from the subject of the Summit. Although we have restricted ourselves to civil and political rights, the social problem is, of course, one to which we attach great importance and which could be dealt with separately some other time.

Mr Jozeau-Marigné — who is unfortunately not present — reminded us that, in its opinion, the Legal Affairs Committee stated that it was in favour of applying Article 236 of the EEC Treaty.

The Political Affairs Committee is of course under no obligation to go along with the opinion of the Legal Affairs Committee, but it has nevertheless acknowledged this opinion by not only supporting my suggestion that Article 235 could be applied by virtue of the basic principles enshrined in the Treaty of Rome, but also saying that the task of studying the question in detail should be left to the Commission, and explicitly stating that, if the Commission should conclude that Article 235 is not applicable, Article 236 could be applied instead. In this way we have, I repeat, paid tribute to the Legal Affairs Committee, which drew our attention to the applicability of Article 236.

I was very pleased that Mr Davignon drew attention to the significance of Article 235, which he said could be applied for at least some of the Commission's activities. It would be ridiculous if we failed to take advantage of such a major legal basis as that offered by Article 235 of the EEC Treaty, which would make it much easier for the Commission to achieve the aims towards which we are working.

I should like to remind Mr Berkhouwer, who complained that no mention was made of personal documents, that the Political Affairs Committee decided to omit the section in the original version of my report dealing with special documents — in order to make our discussions a little more manageable — and to submit to Parliament a separate motion for a resolution on this subject.

Mr President, I have nothing to add except to stress what has already been said by others. True, the Paris Summit only looked into a limited number of aspects. Nevertheless, as Mr Davignon rightly pointed out, several years have passed since then, and we have not even managed to make the small steps forward provided for at this Summit. We should not forget that since this Conference we have had the Tindemans Report, which contains an entire chapter entitled 'A citizens' Europe' devoted to special rights. In fact, the person appointed by the European Council to report on European Union merely enlarged on what was decided at the Paris Summit. I should like to add that, having looked through the documents submitted by the various governments to the Working Party, I see that the German delegation has submitted a document dealing exclusively with the protection of basic rights within the Community. This shows that the governments too have recognized the need to go beyond the limited framework of special rights mentioned by the Paris Summit and deal with the whole question of civil and political rights.

Mr President, I feel this document does credit to the European Parliament. At a time when human rights are under discussion throughout the world, we do not wish the Community to play a secondary role. We cannot leave the debate on civil and political rights exclusively to

the great powers. In dealing with this question the European Community will be reaffirming its wish to have its own say in this matter.

(Applause)

President. — The debate is closed.

RESOLUTION

on the granting of special rights to the citizens of the European Community in implementation of the decision of the Paris Summit of December 1974 (point 11 of the final communiqué)

SITTING OF 16 NOVEMBER 1977

The European Parliament,

- having regard to the decision of the Conference of the Heads of State or Government of December 1974 on the granting of special rights to citizens of the Community, and the preliminary study by the Commission of the European Communities published under the title 'Towards a citizens' Europe',
- emphasizing the political importance for the development of the European Community — not least with a view to direct elections in 1978 — of strengthening the ties of solidarity among its citizens by granting special rights falling within the category of civil and political rights,
- whereas European Union should lead progressively to profound changes in the civil and political status of Community citizens,
- recalling its resolution of 10 July 1975 on European Union,¹ in which *inter alia* it expressed the hope that, with a view to giving the peoples of the Community a sense of common destiny, a 'charter of the rights of the peoples of the European Community' will be drawn up and that practical measures capable of contributing to the development of a European Community consciousness will be adopted,
- having regard to the Tindemans report,² which considers that not only the acknowledgement of Community citizens' basic rights, but also protection of those rights by the Community are 'essential' for the development of the Community,
- whereas, in order to ensure the equality of Community citizens in the enjoyment of civil and political rights, these rights should be protected not only against acts by the

¹ OJ C 179 of 6. 8. 1975, p. 28.

² See Doc. 481/75.

Community organs, but also against acts by the national governments, as is already the case for economic rights,

- considering that the civil and political rights to be protected should be defined with reference to the solemn declaratory acts and documents which form part of the common heritage of all the Member States,
- considering that uniform application of these civil and political rights can be adequately ensured by intervention by the Court of Justice of the European Communities,
- whereas, in order to facilitate the necessarily gradual recognition of the equality of Community citizens in the enjoyment of civil and political rights, both at the level of the Community as a whole and within each individual Member State, it would appear advisable to lay down the necessary measures in Community Regulations,
- having regard to the report of the Political Affairs Committee and the opinion of the Legal Affairs Committee (Doc. 346/77),

Requests the Commission of the European Communities

1. To draw up proposals relating to special rights, in the light of the above preamble and recitals, and as a first step towards European Union;

2. To press for an agreement between the Member States, on the basis of Article 235 and, possibly, Article 236 of the EEC Treaty, under the terms of which, the following would be considered — in the light of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948 — as integral parts of the Treaties establishing the Communities:

- (a) the European Convention on Human Rights of 4 November 1950 and subsequent Protocols,
- (b) the International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on 19 December 1966,
- (c) the civil and political rights provided for in the constitutions and laws of the Member States;

3. To consider the following among the rights to be granted as a matter of priority to Community citizens:

- (a) Community protection for civil and political rights equivalent to that provided for in the Treaties establishing the European Communities for economic rights,

(The legal instrument introducing Community protection for civil and political rights must also make provision for rules to govern the respective roles of the Council, the Commission and the Court of Justice of the European Communities in this field.)

- (b) the rights proposed in the Tindemans report and first and foremost the right for individuals to appeal to the Court of Justice of the European Communities,
 - (c) the right to submit petitions,
 - (d) the right to stand for and vote at elections and to hold any public office for which they would normally be eligible at local authority level,
 - (e) the right of Community citizens who have been resident in a Member State for at least 10 years to stand for and vote at elections and to hold public offices for which they are eligible in all regional administrative authorities between local authority and State level (departments, provinces, countries, regions, etc.),
 - (f) the right to stand for and vote at elections for political office, for Community citizens satisfying special conditions,
 - (g) all the rights connected with the right to stand for and to vote at elections, and in particular the freedom of assembly and association,
 - (h) equality with citizens of the Member State in which the Community citizen concerned resides as regards the assertion of rights and access to offices and posts in the professional, social and economic sphere, if necessary after a suitable period of residence,
 - (i) the right to belong to a trade union of one's choice,
 - (j) the right of residence for all Community citizens,
 - (k) the right of Community citizens to use their mother tongue and to choose freely lawyers from any Member State for their defence in court actions,
 - (l) the right of Community citizens to open educational establishments and to teach and study under the same conditions laid down in respect of nationals;
4. Instructs its President to forward this resolution and the report of its committee to the European Council, the Council and Commission of the European Communities and to the Parliaments of the Member States of the Community.

MOTION FOR A RESOLUTION

tabled by Mr Calewaert, Mr Sieglerschmidt, Mr Broeksz, Mr Adams and Mr Hoffmann on behalf of the Socialist Group

and Mr Riz, Mr Luster, Mr Bersani, Mr Alber and Mr Schworer on behalf of the Christian-Democratic Group (Group of the European People's Party)

with request for an immediate vote pursuant to Rule 47(5) of the Rules of Procedure, to wind up the debate on the oral question (Doc. 570/77)

on the legal policy of the European Communities

12 APRIL 1978

The European Parliament,

- having regard to the need for the present level of integration and the Community policies hitherto developed to be safeguarded as far as possible through parallel progress in the legal policy sector,
- having regard to the possible unfavourable effect which a delay in legal policy initiatives may have on progress in the economic and social policy sectors,
- concerned by the backlog of legal policy work in the Council and Commission on civil law, consumer protection, enforcement law, company law, securities law, competition law, copyright law and insurance law,
- concerned by the fact that the Council of Ministers of Justice has met only twice — in 1971 and 1974 — since the establishment of the European Communities,

- concerned that a backlog of this kind may adversely affect the European citizen's interest in direct elections to the European Parliament,
 - having regard to the need to achieve some measure of legal policy consolidation before the European Community is enlarged,
1. Calls on the Commission to do everything it can to accelerate and to intensify its work on legal policy;
 2. Calls on the Commission initially to concentrate on company law and to submit by April 1978 its proposed amendments to the Fifth Directive (structure of *sociétés anonymes*) and by June 1978 the drafts of the Eighth (auditors) and Ninth (company law (combine law)) Directives and to inform the European Parliament of the progress made on the Convention on the international merger of *sociétés anonymes*;
 3. Calls on the Council to open the promised information procedure in connection with the Statute for the European Company in April 1978;
 4. Calls on the Council to finally adopt the Third (domestic mergers of companies) and Fourth (annual accounts) Directives by June 1978, or else to apply the conciliation procedure to these directives and open it immediately;
 5. Calls on the Commission to conclude by June 1978 its work on the granting of special rights to Community citizens on the basis of the decision of the Heads of State or Government of 9 and 10 December 1974 and the Resolution of Parliament of 16 November 1977;
 6. Calls on its Political Affairs Committee and its Legal Affairs Committee to keep a close check on the compliance of the Council and Commission with this Resolution and if necessary to report on this matter;
 7. Decides to convene a Round Table on the granting of special rights to Community citizens for autumn 1978 in Florence, at which, under the chairmanship of its draftsman, Mr Mario Scelba, representatives of the Institutions of the Community and the Parliaments of the Member States shall meet to draw up a draft 'Community Charter of Citizens' Rights';
 8. Instructs its President to forward this resolution to the Council, the Commission and the Ministers of Justice and Parliaments of the Member States.

RESOLUTION

on the legal policy of the European Communities

SITTING OF 13 APRIL 1978

The European Parliament,

- having regard to the need for the present level of integration and the Community policies hitherto developed to be safeguarded as far as possible through parallel progress in the legal policy sector,
 - having regard to the possible unfavourable effect which a delay in legal policy initiatives may have on progress in the economic and social policy sectors,
 - concerned by the backlog of legal policy work in the Council and Commission on civil law, consumer protection, enforcement law, company law, securities law, competition law, copyright law and insurance law,
 - concerned by the fact that the Council of Ministers of Justice has met only twice — in 1971 and 1974 — since the establishment of the European Communities,
 - concerned that a backlog of this kind may adversely affect the European citizen's interest in direct elections to the European Parliament,
 - having regard to the need to achieve some measure of legal policy consolidation before the European Community is enlarged,
1. Calls on the Commission to do everything it can to accelerate and to intensify its work on legal policy;
 2. Calls on the Commission initially to concentrate on company law and to submit by April 1978 its proposed amendments to the Fifth Directive (structure of *sociétés anonymes*) and by June 1978 the drafts of the Eighth (auditors) and Ninth (company law (combine law)) Directives and to inform the European Parliament of the progress made on the Convention on the international merger of *sociétés anonymes*;
 3. Calls on the Council to open the promised information procedure in connection with the Statute for the European Company in April 1978;

4. Calls on the Council to finally adopt the Third (domestic mergers of companies) and Fourth (annual accounts) Directives by June 1978, as otherwise the conciliation procedure shall be opened immediately in respect of these Directives;
5. Calls on the Commission to conclude by June 1978 its work on the granting of special rights to Community citizens on the basis of the decision of the Heads of State or Government of 9 and 10 December 1974 and the resolution of Parliament of 16 November 1977;
6. Calls on its Political Affairs Committee and its Legal Affairs Committee to keep a close check on the compliance of the Council and Commission with this resolution and if necessary to report on this matter;
7. Decides to convene a 'round table' on the granting of special rights to Community citizens for autumn 1978 in Florence, at which, under the chairmanship of its draftsman, Mr Mario Scelba, representatives of the institutions of the Community and the Parliaments of the Member States shall meet to draw up a draft 'Community charter of citizens' rights';
8. Instructs its President to forward this resolution to the Council, the Commission and the Ministers of Justice and Parliaments of the Member States.

JOINT DECLARATION

by the European Parliament, the Council and the Commission

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.

Done at Luxembourg on the fifth day of April in the year one thousand nine hundred and seventy-seven.

*For the
European Parliament*

E. COLOMBO

*For the
Council*

D. OWEN

*For the
Commission*

R. JENKINS

DECLARATION ON DEMOCRACY

(COPENHAGEN, 8 APRIL 1978)

The Heads of Government of the Member States meeting within the European Council make the following declaration.

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 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 procedure necessary for the protection of human rights.

The Heads of Government associate themselves with the Joint Declaration by the Assembly, 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.

European Communities — European Parliament

Proceedings of the Round Table on 'Special rights and a charter of the rights of the citizens of the European Community' and related documents

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Protection of fundamental human rights and the recognition of equal civil and political rights for the citizens of the Member States of the Community are two subjects on which the European Parliament's attention is focused. Tangible proof of this is afforded by the Round Table on special rights and the European Community's civil rights charter organized by the European Parliament at the European University Institution in Florence.

The Directorate-General for Research and Documentation of the European Parliament, which played a major role in the organization and conduct of the Round Table, is happy to publish this collection of its most important acts and documents. It hopes thus to make a useful contribution to the action which the European Parliament has initiated and will further pursue with the aim of guaranteeing to all citizens of the Community full equality of rights and greater participation in the Community's decision-making process.



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