



EUROPEAN FILE

The European Community and human rights

The right to life and liberty and security of person; the right to private and family life; freedom of conscience, opinion and expression; protection against unfair and arbitrary treatment; the right to education; the right of association and membership of a trade union; the right to employment, a fair wage and social security: these are only some of the most important human rights. Today, two centuries after the Declaration of The Rights of Man and of the Citizen (26 August 1789) and 40 years after the Universal Declaration of Human Rights (10 December 1948) intensive efforts are still required to protect and promote them.

The institutions of the European Community have taken numerous initiatives which underline the Community's attachment to human rights within its field of competence and its concern to encourage respect for those rights in international relations.

The 1951 Treaty of Paris and the 1957 Treaties of Rome, which together form the Community's 'constitution', do not explicitly mention human rights. However, the 1957 Treaty establishing the European Economic Community affirms the willingness of Member States to safeguard peace and freedom and gives the Community the particular aims of improving living standards and abolishing discrimination on grounds of nationality between citizens of Member States. It also bestows new rights on those citizens, such as freedom for workers to move and establish themselves in the country of their choice and equal treatment, both for women in the workplace and for immigrant workers.

Since then, Community Member States have determined to go further along the road towards a European Union, which is to be founded on a 'people's Europe' and on a large internal market without frontiers. In this context, new efforts were judged necessary to accord special rights to Community citizens (in particular, the right for everyone to vote in local elections), to allow full freedom of movement for persons between member countries (extension of entry and residence rights, etc.) and to affirm more effectively the democratic nature of the European institutions – the responsibilities of which continue to grow.

Two decisive steps have already been taken:

- The election of Members of the European Parliament by direct universal suffrage since 1979. The next elections will take place in June 1989.
- The adoption in 1986 of the Single European Act completing the Treaty of Rome. In its preamble, the Act mentions the European Convention on Human Rights and European Social Charter drawn up by the Council of Europe. It treats the rights which they enshrine – of freedom, equality and social justice – as cornerstones for the construction of Europe and emphasizes the need to assert them in international relations. For the Community, human rights therefore have both a social and an international dimension.

The Community institutions had previously signed two joint declarations: one in 1977, which requires them to respect human rights and fundamental freedoms in the

exercise of their powers; the other in 1986, against racism and xenophobia. In addition, numerous judgments of the Court of Justice of the Community refer to fundamental rights.

There are some differences between Community Member States, particularly in relation to social rights, but all have made commitments on human rights in their constitutions and in many international conventions drawn up by the United Nations and the Council of Europe. They have also made joint commitments in several declarations adopted within the Community: the 1973 declaration on European identity; the 1978 declaration on democracy – which makes the declaration and respect for fundamental rights a prerequisite for membership of the Community; the 1983 solemn declaration on European Union; the 1986 declaration on human rights.

The role of the European Parliament

The European Parliament makes use of its powers of deliberation and supervision to ensure respect for fundamental rights. It accepts petitions from European citizens and has drawn up many reports and resolutions on human rights. The written and oral questions asked by parliamentarians also demonstrate the role played in this domain by the Parliament. It intervenes directly with the European Commission, the Council of Ministers and European political cooperation (which is responsible for harmonizing the positions of Member States on international questions) and also addresses itself to public opinion.

These interventions deal as much with specific, often individual, cases as with defining the policy to be followed. With regard to human rights, the Parliament is particularly anxious to:

- define a clearly stated Community policy, both in its relations with third countries and within the Community, where citizens already enjoy many guarantees but where activities of different institutions ought to be better coordinated;
- have the Community and its institutions given a more explicit legal mandate;
- influence joint positions taken by Member States in the area of foreign policy.

Several committees prepare the work of the Parliament in the area of human rights.

- For problems within the Community: the Committee on Legal Affairs and Citizens' Rights, the Committee on Petitions, the Committee on Women's Rights and the Institutional Affairs Committee, which is currently preparing a White Paper and a proposal for a resolution on the fundamental rights of citizens.
- For problems outside the Community: the Subcommittee on Human Rights of the Political Affairs Committee (which since 1983 has been drawing up an

annual report on human rights in the world) and the Committee on Development and Cooperation. Also, in the framework of the Lomé Convention, which links the Community with African, Caribbean and Pacific States (ACP), a working party of the Joint Assembly, as well as the Bureau of the Assembly, ensure the application of the provisions of the Third Convention on human rights and human dignity. Members of the European Parliament also discuss this issue with other partners in informal inter-Parliamentary delegations.

For better coordination of all these activities, the Parliament is considering the possibility of a specific committee on human rights. It has already established, within its own administration, a directorate to provide the necessary technical assistance.

The role of the Council

- The European Council, in which the Heads of State or Government of the Member States and the President of the European Commission meet together, has taken several initiatives to advance the fundamental rights of the citizen. After their 1972 declaration of intent to form a European Union, the leaders associated this concept in various declarations with the preservation of democracy, social justice and human rights, which they saw as essential to European identity and to membership of the Community. Reaffirming this connection, they agreed in 1983 that European Union must be based on citizens' participation. In 1986, the adoption of the Single European Act enshrined these principles in law.
- The Council of Ministers, which is charged with taking the decisions necessary to the development of the Community, on the basis of proposals from the Commission, has taken several stands on human rights. It has taken care to refer to human rights in agreements signed with many outside countries (in particular, the ACP and Central American countries). In a 1986 declaration, the Council emphasized the importance it attaches to respect for human rights in the Community's relations with third countries, both in Europe and in the rest of the world. In addition, as part of the establishment of a people's Europe and of the large market, the Council has adopted, or is in the process of adopting, numerous measures to give Europeans specific rights to enable them to live and work more easily in a member country other than their own.

The role of the Court of Justice of the Community

Machinery to ensure respect for human rights has been established by the Council of Europe's Convention on Human Rights. It is the task of the European Court of Human Rights, based in Strasbourg, to deal with violations of these rights in the countries of Western Europe (not just in Community Member States). It does so after a preliminary examination by the Commission of Human Rights of every submission from individuals who believe they were wronged in violation of the Convention.

The role of the Court of Justice of the European Communities, located in Luxembourg, is no less essential. Charged with ensuring respect for Community law, the Court of Justice originally considered that human rights were exclusively the responsibility of Member States. The situation is now completely different. A series of judgments, going back to the end of the 1960s, affirmed the existence of fundamental rights for the individual, rights inferred from common constitutional traditions in the Member States and from international treaties ratified by them, in particular the Convention on Human Rights. For the Court, these rights are among the general principles of Community law, for which it must ensure respect within the limits of its responsibilities as determined by Community aims and structures. The Court therefore recognizes such rights as: the right to property ownership and to the exercise of an economic activity; freedom of association and of religion; the general principle of equality; prohibition of the arbitrary exercise of power; protection of the family; the obligation to justify individual decisions and to safeguard the right of redress.

The role of the Commission

In the absence of a mandate from the Treaties or from the Member States, the Commission cannot develop a Community policy on human rights in the full sense of the term. None the less, in the exercise of its powers it promotes those rights.

- Within the Community, the Commission, guardian of the European Treaties, takes care to see that the Member States respect fundamental rights as principles of Community law in areas of Community competence. In relation to the aims of European integration laid down by the Single Act, the Commission can promote these rights and thereby contribute towards better protection for citizens. In other areas, the Commission must at present leave it to other institutions to inquire into possible violations of human rights.
- In regard to third countries, the Commission is fully associated with the work of European political cooperation, which plays an important role in this area. It can also act independently, as happened on several occasions involving South Africa and other countries. In addition, in its aid to the Third World, the Commission attaches great importance to promoting human rights. This issue is treated further later in this file.

Since 1984, responsibility for the coordination of activities involving human rights has been entrusted to a member of the Commission, currently to the President. He is assisted in this work by a special service within the Secretariat-General of the Commission.

The role of European political cooperation

Launched in 1969 and recognized in 1986 by the Single European Act, European political cooperation (EPC) aims to harmonize the positions of Community

Member States on foreign policy and to strengthen their solidarity in confronting major international problems. The preamble to the Single Act makes the defence of human rights in international relations a guideline both for the Community's external relations and for the foreign policy which the Twelve are to implement in European political cooperation.

The July 1986 declaration on human rights is the touchstone of 'European' policy in this domain. Respect for human rights is a very important element in relations between the Twelve and third countries. The Twelve make every possible effort to promote and protect human rights and fundamental freedoms. In the event of a violation of these rights or freedoms, they frequently intervene with other governments to express European concerns and to insist on complete respect for human rights. These interventions, in the form of joint diplomatic approaches, are often confidential, particularly when the Twelve believe that joint public declarations could prove ineffectual, or even contrary to the objectives being pursued.

European political cooperation has established a working party on human rights.

The president-in-office of European political cooperation, by turn one of the Foreign Affairs Ministers of the Twelve, presents an annual report to the European Parliament on the activities of the Twelve in European political cooperation. During each session the president-in-office also answers questions from parliamentarians on these activities. Human rights are often raised on these occasions.

In addition, the European political cooperation has sent various memoranda to the European Parliament on the activities of the Twelve in the area of human rights.

Relations with other organizations

The European Community seeks to contribute to the promotion of human rights in international organizations.

- It participates as an observer in the work of the Council of Europe, in which all the democratic States of Western Europe are involved. The protection of human rights is one of the principal aims of the Council of Europe, which has drawn up:
 - The Convention on Human Rights (1950). This guarantees a certain number of rights, particularly civil and political. All Community Member States have ratified this Convention, allowing individuals to appeal to the European Commission of Human Rights (which investigates the dossiers) and accepting the jurisdiction of the European Court of Human Rights (which delivers judgment). In 1979 the Commission proposed to the Council that the European Community as such should formally accede to the Convention, to show the Community's attachment to fundamental rights and its willingness to accept the Convention's control procedures. However, ministers of the Twelve have been unable to agree on this accession.

- The European Social Charter (1961), which guarantees the exercise of many fundamental social rights (such as the right to work and to a fair salary, the right to join a trade union and the right to social security). Not all Member States have yet acceded to this charter.

Under the terms of the Single European Act, these two legal instruments constitute references for the promotion of fundamental rights. In 1987, the Community and the Council of Europe decided to strengthen their collaboration.

- In 1975 in Helsinki, the Community and its Member States, together with 21 countries from Western and Eastern Europe, as well as Canada and the United States, signed the final Act of the Conference on Security and Cooperation in Europe (CSCE). This Act includes several provisions relating to human rights. The implementation of these texts was examined during three meetings in the follow-up to the Helsinki Conference, held in Belgrade, Madrid and Vienna. In these meetings, the Community and the Member States tried to obtain substantial and balanced results, with improved implementation of the commitments entered into since 1975 and an agreement on significant progress in all the areas covered, particularly as regards the human dimension of the CSCE.
- Under the terms of the European Treaties, the Community has many links with the United Nations; it also participates in the work of the UN General Assembly and of its various organizations, which frequently deal with human rights questions, civil and political, but also social, economic and cultural. The reference points in this area are the December 1948 Universal Declaration on Human Rights and international agreements of 1966. The leading position of Europe in social legislation gives particular authority to many of the positions which it adopts. In addition, the European Commission participates in meetings of the coordination groups of the Western countries, which follow the work of UN bodies.

Subjects for intervention

The Community has taken positions on many issues related to human rights. For example, within the Community, positions on:

- Racism and xenophobia. Following the joint declaration against racism and xenophobia adopted by the European Parliament, the Council, the representatives of Member States meeting in the Council, and the European Commission, the Commission prepared a proposal for a resolution on a series of specific measures in three areas: institutions (improved national legislation, the creation of structures for mediation, etc.); information (improved distribution of legal texts, distribution of surveys, amalgamation at Community level of associations for migrants, examination of the role of the media, etc.); education and training (the training of officials and educators, etc.).

- The development of a people's Europe. Concurrent with the establishment of the large market without frontiers, the Commission has proposed many activities to promote knowledge and exercise of the rights of citizens to participate in the construction of Europe and become more aware of their membership in a Community based on common values and principles. In particular, it has submitted to the Council a proposal for a directive on the right for nationals of Member States to vote in local elections in their member country of residence. In addition, because a people's Europe must consider those who are most deprived, the Commission is also pursuing the implementation of a programme to fight poverty, adopted by the Council in 1984. It has also proposed the recognition of the right to information on the environment. Other delicate and complex social issues ought to be examined by the Community.
- The establishment of a European judicial area. The dismantling of internal Community frontiers, involved in the establishment of the large market, requires the setting up of a European judicial area based on the harmonization of a range of regulations and on cooperation between judicial, police and other authorities. Several measures have already been taken in this respect, in different contexts.
- The protection of privacy. The European Parliament and the Commission have called on the Member States to ratify the Council of Europe Convention for the Protection of Individuals with regard to the automatic processing of personal data.

On the other hand, the Council and Commission believe that the Community has no competence as regards certain questions brought up by the European Parliament or some of its members, such as, for example, telephone-tapping, conscientious objection to obligatory military service, the right of custody of children whose parents are of different nationalities, etc.

The Community has often intervened in situations involving third countries. For example:

- Apartheid. This has been the subject of numerous condemnations by the European Parliament, Ministers for Foreign Affairs and the European Commission. There is also a joint declaration annexed to the Third Lomé Convention. In addition, the Council launched a concerted Community/Member States programme to assist apartheid victims. The Community gave ECU 20 million in 1987 and ECU 25.5 million in 1988¹ to non-governmental organizations which provide social, economic and cultural assistance to black South Africans.
- The problem of refugees. The Community collaborates with organizations which help refugees and other displaced persons. Its expenditure in this area was ECU 123 million in 1987 and included food and emergency aid to Africa, Central

¹ ECU 1 (European currency unit) = about £ 0.64, Ir£ 0.78 or US\$ 1.13 (at exchange rates current on 15 February 1989).

America and Asia, educational and material assistance to the Lebanon, etc. In addition, the Commission is considering submitting a proposal for a directive to approximate national rules on the right of asylum and on the status of refugees.

- Human rights in many countries associated with the Community through cooperation agreements. While respecting the sovereignty of its partners and mindful of their particular circumstances, the Community endeavours to include in the preambles to these agreements references to human dignity and the promotion of human rights. Such references, set down in a more specific manner in the Third Lomé Convention and the agreement with the countries of Central America, do not of course give the Community the legal power to intervene in the event of human rights violations. However, their scope is more than just symbolic. A practice has developed, based on political démarches and high-level talks. The role played in this area by the European Parliament, which is particularly attentive to these issues, has already been referred to. The European Commission, without establishing a systematic link between its assistance and respect for human rights, does examine on a case-by-case basis the most effective means to ensure such respect whenever human rights are at issue. Where there are extreme or large-scale violations, economic assistance can be suspended, although humanitarian assistance is not called into question. In addition, the Commission always makes sure that its assistance is not exploited or diverted and that it benefits directly those who are in need.

In general, the Community institutions and the Member States meeting in European political cooperation keep themselves constantly informed on the world human rights situation. There have been innumerable European interventions against arbitrary imprisonment, torture and capital punishment. However, they are not always made publicly: sometimes those responsible judge discretion to be more effective.



The construction of Europe is not solely a matter of economics. Beyond the pragmatism of the Community's common policies — the fruits of history, necessity and will — human rights and fundamental freedoms are part of the common heritage of Europeans. With other concerns, such as education or culture, they can stimulate our vision of the place of Europe in the world and the European model of society: a society in which individuals can thrive while being conscious of their obligations towards others — a unique model which we must all enrich and fulfil ■

The contents of this publication do not necessarily reflect the official views of the institutions of the Community. Reproduction authorized.

Commission of the European Communities

Directorate-General for Information, Communication and Culture
Rue de la Loi 200 – B-1049 Brussels

Information offices (countries fully or partially English speaking*)

Ireland 39 Molesworth Street, Dublin 2 – Tel. 71 22 44

United Kingdom 8 Storey's Gate, London SW1P 3AT – Tel. 222 81 22
4 Cathedral Road, Cardiff CF1 9SG – Tel. 37 16 31
7 Alva Street, Edinburgh EH2 4PH – Tel. 225 20 58
Windsor House, 9/15 Bedford Street,
Belfast BT2 7EG – Tel. 24 07 08

USA 2100 M Street, NW, Suite 707,
Washington DC 20037 - USA – Tel. (202) 862-9500
245 East 47th Street, 1 Dag Hammarskjöld Plaza,
New York, NY 10017 - USA – Tel. (212) 371-3804

* Offices also exist in other countries including all Member States.



Office for Official Publications
of the European Communities
L - 2985 Luxembourg

ISSN 0379-3133

Catalogue number: CC-AD-89-005-EN-C

EN