

# EUROPEAN PARLIAMENT

DIRECTORATE-GENERAL FOR RESEARCH  
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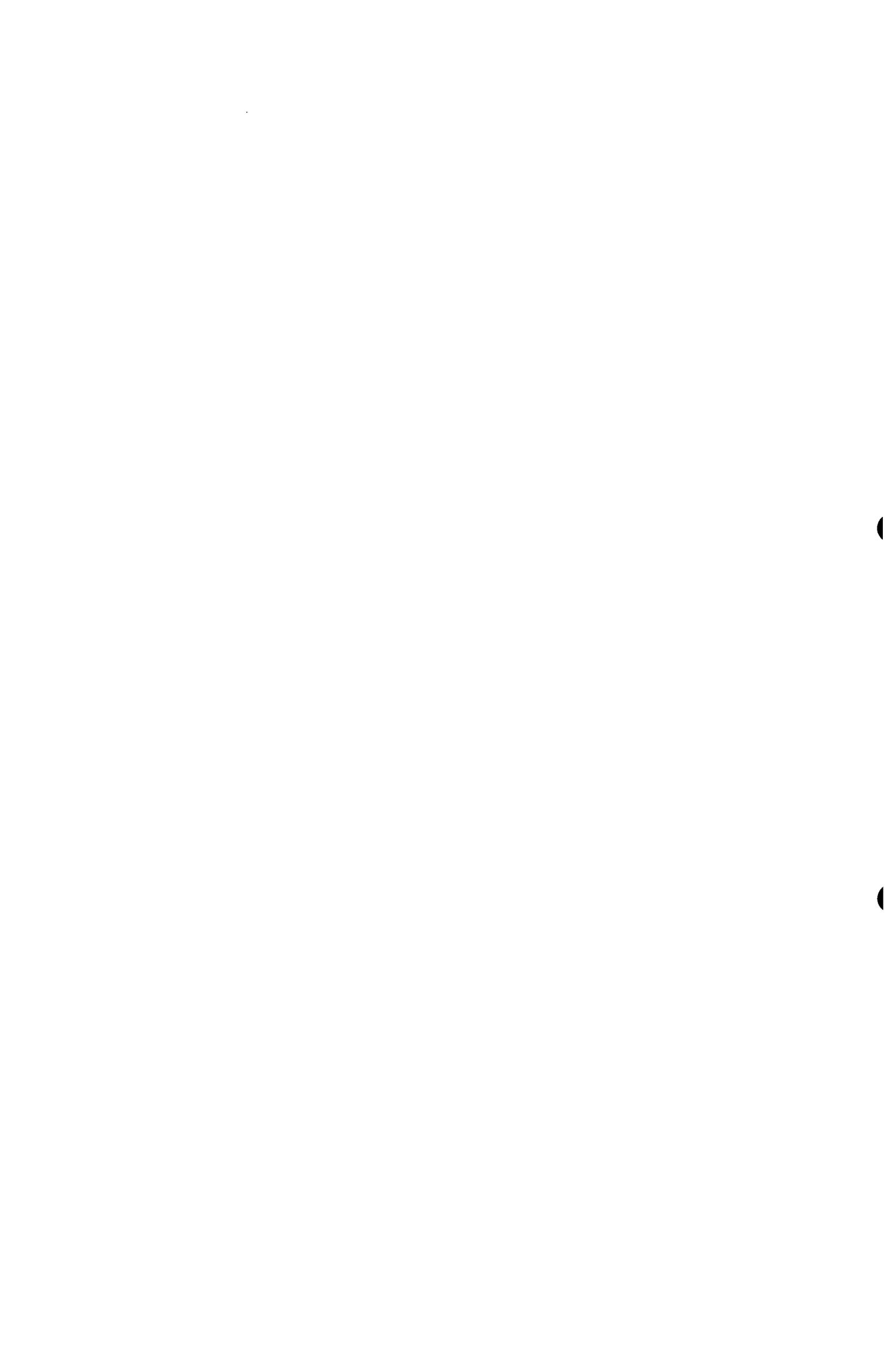
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- Legal Service -

NOTE  
on the  
DEFINITION  
OF HUMAN RIGHTS

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NOTE  
ON THE DEFINITION OF HUMAN RIGHTS

1. INTRODUCTION

Any definition of human rights must relate to a particular period, since it is characterized by its historical context within a given legal system and a certain type of society. One has only to take the practice of slavery which was lawful during Roman times, and indeed much more recently. Even torture was permitted by law in many States until a few decades ago. It is perhaps, for this reason that most of the texts on human rights contain no definition of such rights.

II. DEFINITION

Nowadays the term human rights denotes the overall rights of subjects as laid down in Constitutions or laws or deriving from tradition or accepted practice.

The term basic rights, however, covers only one category of human rights, i.e. the rights of the human person, also called individual or fundamental rights. These are not based on positive law but are inherent in the existence of the individual, in human dignity and in the full and free development of the human person.

A distinction is commonly made between fundamental rights and fundamental freedoms; but this distinction is purely conventional since freedoms are also rights.

However, for the sake of clarity, this distinction will be observed in this note.

III. FUNDAMENTAL RIGHTS

This category covers mainly:

- (a) the right to life
- (b) the right to freedom
- (c) the right to security

Life and liberty are without doubt man's most precious assets.

The right to life, freedom and security are absolute rights in the highest sense of the word and prohibit slavery, torture, arbitrary imprisonment and inhuman or degrading punishment or treatment. The established law allows no exception or derogation from these rights.

One might also include in this category rights concerning legal personality, in other words the right of recognition of legal personality, the right of name and citizenship.

#### IV. FUNDAMENTAL FREEDOMS

Man's right to freedom does not mean exclusively the right to security of person in the strict sense of the word, but also embraces other activities which are commonly considered to be fundamental freedoms. These in turn can be subdivided into two categories: freedoms in private life and those in the public sphere.

##### (a) Personal freedoms

These freedoms include:

- freedom of thought
- freedom of conscience
- freedom of religion
- respect for private and family life
- respect for home
- respect for correspondence
- freedom to marry
- freedom to found a family

Any derogation from such rights is inadmissible in a democratic society, except, in the case of respect for home and correspondence, in times of war or when exceptional measures are justifiable in the interests of public safety.

##### (b) Public freedoms

This category includes:

- freedom of expression
- freedom of assembly
- freedom of association
- freedom of movement

Certain restrictions on these freedoms are acceptable in times of war or in other exceptional circumstances.

#### V. FUNDAMENTAL GUARANTEES

The right to life and freedom imply a ban on arbitrary deprivation of life and freedom. Such deprivation is only admissible through a due legal process. In other words it can be imposed by a competent and independent tribunal established by law which respects the right of defence.

This due process presupposes two other fundamental principles: the presumption of innocence and the non-retroactive nature of penal laws.

Respect for these fundamental guarantees is enshrined in the Constitutions in most States and in the international agreements on the defence of human rights.

These fundamental guarantees are reinforced by a general ban on discrimination: all men are equal in the eyes of the law and have the right to equal protection by the law without prejudice. In other words, where human rights are concerned no discrimination is allowed in law and in practice. Consequently all discrimination based on race, sex, property, nationality, religion and language must be abolished.

#### VI. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Originally restricted to civil and political rights or fundamental rights, human rights have recently been extended to include other categories, notably economic and social rights.

These rights are less important compared to the abovementioned fundamental rights, but this does not mean that they are of less benefit to man. In other words the distinction between fundamental rights and economic and social rights is not based on any priority in man's needs. It is rather a question of a technical legal distinction.

Social and economic rights may be classified thus:

- (a) Economic rights
  - the right to work
  - the right to reasonable working conditions
  - freedom to belong to a union
  - freedom of private economic initiative.
  
- (b) Social rights
  - the right to social security
  - the right to housing
  - the right to public assistance.
  
- (c) Cultural rights
  - the right to education
  - the right to cultural activities
  - freedom of teaching.

Economic and social rights generally require financial support from the State if they are to be fully effective. Thus the extent, to which they are observed depends largely on the economic situation of each State.

#### VII. CONCLUSION

This brief report aims simply to define and classify human rights without going into the details and the extent of individual rights, and thus to provide a rapid identification of those rights which call for political action in order to ensure that they are respected throughout the world.

On the international level however, other problems arise, such as the protection of ethnic and linguistic minorities, reunification of families, marriage between citizens of different countries, free movement of persons and of ideas, and the protection of refugees.

Respect for the rights and fundamental freedoms of man demands constant vigilance and sustained and forceful intervention on the part of all those who, both individually and collectively, strive for a world in which we can all live peaceably together and find true fulfilment in our lives.

