

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(89) 248 final

Brussels, 30 May 1989

PRELIMINARY DRAFT

COMMUNITY CHARTER OF FUNDAMENTAL SOCIAL RIGHTS

(presented by the Commission)

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The Heads of State or of Government of the Member States of
the European Community meeting at _____ on

Whereas, under the terms of Article 117 of the EEC Treaty,
the Member States have agreed on the need to promote improved
living and working conditions for workers so as to make
possible their harmonization while the improvement is being
maintained;

Having regard to the importance attached by the European
Councils of Hanover and Rhodes to the implementation of a
social policy at Community level, particularly in view of
the impending completion of the internal market;

Having regard to the Resolution of the European Parliament of 15 March 1989 and the opinion of the Economic and Social Committee of 22 February 1989;

Whereas one of the priority objectives in the economic and social field is to combat unemployment and to this end the completion of the internal market presents major opportunities for growth and job creation;

Whereas the completion of the internal market should be conducive to the approximation of improving living and working conditions, as well as economic and social cohesion within the European Community while distortions of competition;

Whereas the completion of the internal market must also offer improvements in the social field for citizens of the European Community, especially in terms of freedom of movement, living and working conditions, social protection, education and training;

Whereas, in a spirit of solidarity, it is important to combat every form of social exclusion and discrimination;

Whereas workers from third countries who are legally resident in a Member State of the Community should benefit from treatment comparable to that of workers of the Member State concerned ;

Whereas it is appropriate to draw inspiration from the Conventions of the International Labour Organization and from the European Social Charter of the Council of Europe;

Whereas the Treaty, as amended by the Single European Act, contains provisions laying down the powers of the Community, relative inter alia to the freedom of movement of workers (Art. 48-51), the right of establishment (Art. 52-58), the approximation of laws (Art. 100 a), the social field (Art. 117-122) - in particular as regards improvement of the working environment (Art. 118 a), the development of the dialogue between management and labour at European level (Art. 118 b), the principle that men and women should receive equal pay for equal work (Art. 119), a common vocational training policy (Art. 128) and economic and social cohesion (Art. 130 a to 130 e);

Whereas the present Charter aims on the one hand to build on the progress made in the social field, in particular through Community action;

Whereas it aims, on the other hand, to be solemnly declared that the implementation of the Single European Act must be accompanied, either at European Community level or at the level of the Member States or of their constituent parts, by a development of the social rights of citizens of the European Community, especially workers and self-employed persons;

Whereas responsibility for the initiatives to be taken with regard to the implementation of these social rights, which must be guided by the principle of "subsidiarity", lies, according to the circumstances, with the Member States or their constituent parts or with the European Community ; whereas this implementation requires the involvement of the two sides of industry ;

Whereas the solemn proclamation of fundamental social rights at European Community level must not, when implemented, provide grounds for any retrogression compared with the situation currently existing in each Member State,

HAVE ADOPTED THE FOLLOWING DECLARATION CONSTITUTING THE "COMMUNITY CHARTER OF FUNDAMENTAL SOCIAL RIGHTS" :

TITLE I - FUNDAMENTAL SOCIAL RIGHTS**RIGHT TO FREEDOM OF MOVEMENT**

1. Every citizen of the European Community shall have the right to **freedom of movement throughout the territory of the Community** subject to restrictions justified on grounds of public policy, public security or public health.

Harmonization of conditions of residence in all Member States particularly those concerning family reunification shall be continued.

2. The right to freedom of movement must enable any citizen to engage in any occupation or profession in the Community under the same terms as those applied to nationals of the host country, subject to the provisions of Community Law.
3. This right to freedom of movement shall imply entitlement to equal treatment in all fields, including social and tax advantages.

4. In order to ensure the implementation of freedom of movement, those obstacles constituted by the non-recognition of certain categories of qualifications or occupational skills must be eliminated.
5. Special attention must be devoted to improving the living and working conditions of European Community citizens residing in frontier regions and, in particular, of frontier workers.
6. The **wage conditions** as well as other social benefits relating to this wage applied in the host country , must in particular be guaranteed to workers of another European Community Member State performing work for the account of a sub-contracting undertaking in the host country concerned.
7. Furthermore, social protection must be extended to all citizens of the Community engaged in gainful employment in a country other than their country of origin on terms identical to those enjoyed by workers of the host country.
8. Working conditions and social protection applicable in the place of employment must in particular be ensured in the event of public works contracts in the Community.

EMPLOYMENT AND REMUNERATION

9. All employment shall be fairly remunerated.

To this effect, either by law or by collective agreement at national, regional, interoccupational, sectoral or company level:

- decent wage shall be established;
- rules shall be laid down on the basis of which workers subject to terms of employment other than a contract of unfixed duration can be assured of an equitable reference wage ;
- wages may be withheld, seized or transferred, only in accordance with national law ; under no circumstances may employed persons be deprived of the necessary means of subsistence for themselves and their families .

10. Every individual is free to choose and engage in an occupation

11. Every individual shall have access to placement services free of charge.

IMPROVEMENT OF LIVING AND WORKING CONDITIONS

12. The development of a single European labour market must lead to an improvement in the living and working conditions of workers in the European Community, this process resulting from an approximation of these conditions, while the improvement is being maintained.

This approximation relates first and foremost to the organization and flexibility of working time, particularly by establishing a maximum duration of working time per week.

It also relates to all forms of employment other than contracts of unfixed duration and in particular to contracts of fixed duration, seasonal work, part-time working, temporary work, weekend working, night work and shift-work.

The improvement shall also cover, where necessary, the development of certain aspects of employment regulations such as procedures for collective redundancies or those regarding bankruptcies.

13. Every worker residing in the European Community shall have a right to annual paid leave and to a weekly rest period.

RIGHT TO SOCIAL PROTECTION

14. According to the arrangements applicable to each country:

- every citizen of the European Community shall have a right to **adequate social protection**.
- all workers, whatever their status and whatever the size of the undertaking in which they are employed, shall enjoy social security cover proportional, where appropriate to length of service and pay and to their financial contribution to the appropriate social protection system.

15. Workers who are excluded from the labour market without being able to continue claiming unemployment benefit or who do not have adequate means of subsistence, shall be able to receive a **minimum income** and appropriate social assistance.

RIGHT TO FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

16. Every employer and every worker in the European Community shall have the right to belong freely to any professional or trade-union organization of his choice.

17. This right shall entail recognition of the right to belong to a union, the freedom to negotiate and conclude collective agreements, the right to resort to collective action in the event of a conflict of interests - including the right to strike and the freedom to join any association of a democratic nature or to renounce this right without any personal or occupational damage being thereby suffered by the individual concerned. The establishment and utilisation of procedures of conciliation, mediation and arbitration for the settlement of industrial disputes should also be encouraged.

18. This right shall imply that relations based on agreements may be established between the two sides of industry at European level if they consider it desirable. The contractual agreements thus entered into may cover employment and working conditions, including measures of social protection for the workers concerned.

To this end, the dialogue between the two sides of industry at European level must be developed, in particular at interoccupational and sectoral level.

RIGHT TO VOCATIONAL TRAINING

19. Every European Community worker shall have the opportunity to continue his **vocational training** during his working life. The public authorities, enterprises or, where appropriate, the two sides of industry, each within their own sphere of competence, shall set up **continuing and permanent training systems** enabling every citizen to undergo retraining, more especially through leave for training purposes, improve his skills or acquire new skills, particularly in the light of technical developments.

20. Every European Community citizen shall have the right to enrol for occupational training courses, including those at university level, on the same terms as those enjoyed by nationals of the Member State in the territory of which the courses take place.

RIGHT OF MEN AND WOMEN TO EQUAL TREATMENT

21. Equal treatment for men and women shall be guaranteed. Equal opportunities for men and women shall be developed.

To this effect, action shall be intensified to ensure the implementation of the principle of equality between men and women in matters of remuneration, access to employment, social protection, education and vocational training and career development.

RIGHT TO INFORMATION, CONSULTATION AND PARTICIPATION OF WORKERS

22. Information, consultation and participation of workers must be developed along appropriate lines and in such a way as to take account of the laws, contractual agreements and practices in force in the Member States. This shall apply especially in companies or groups of companies having establishments or companies in several Member States.

23. In particular, these provisions shall be implemented in the following cases :

- when **technological changes** that have major implications for the workforce as far as working conditions and work organization are concerned, are introduced into firms;
- in connection with **restructuring operations** in firms or **mergers** having an impact on the employment of workers;

- when transfrontier workers are affected by employment policies pursued by the firm where they are employed.

RIGHT TO HEALTH PROTECTION AND SAFETY AT THE WORKPLACE

24. Every worker must enjoy satisfactory health and safety conditions, more especially in his working environment and appropriate measures must be taken to this effect with a view to achieving further harmonization of conditions in this area while maintaining the improvements made.

Such protection may not be jeopardized by the provisions concerning the implementation of the single market, especially where public works are concerned.

PROTECTION OF CHILDREN AND ADOLESCENTS

25. Without prejudice to such rules as may be more favourable to young people, in particular those ensuring their preparation for work through of vocational training, the minimum employment age shall be fixed at 16 years.

26. Young people of more than 16 years of age who are in gainful employment shall receive equitable remuneration. Furthermore, for a period of at least two years, they shall receive **complementary vocational training** during working hours in order to adapt to the requirements of their working life.
27. Appropriate measures shall be taken to adjust labour regulations applicable to young workers so that their specific development and vocational training needs are met.

THE ELDERLY

28. Every European Community citizen in retirement or early retirement shall be able to receive an income affording him or her a decent standard of living.
29. Any European Community citizen having reached retirement age but who is not entitled to a pension, for example owing to a very long period of exclusion from the labour market, and who does not have other adequate means of subsistence, shall be entitled to a minimum income.

30. Furthermore, the elderly must be given adequate social protection and specific additional measures shall be taken to ensure that they have social protection and medical assistance specifically suited to their needs and as wide an access as possible to that assistance.

THE DISABLED

31. Measures shall be taken to ensure the fullest possible integration of the disabled into working life, in particular where vocational training, professional reinsertion and readaptation and social integration are concerned, by means of improving accessibility, mobility, means of transport and housing.

TITLE II - IMPLEMENTATION OF THE CHARTER

32. Member States commit themselves to take such steps as are appropriate and to mobilize all the resources that may be necessary in order to guarantee the fundamental social rights contained in this Charter and full implementation of the social measures indispensable to the efficient operation of the internal market. This shall be done either through legislative measures, or by encouraging both sides of industry to conclude collective agreements at national, regional, sectoral or company level.
33. The European Council hereby invites the Commission of the European Communities to pursue, within the framework of the Treaty, its present activities in the social domain and instructs it to present by 30 June 1990, an action programme with a set of related instruments.
34. The Commission is also instructed to present at regular intervals a report on the implementation of the principles of the Charter, in parallel with the implementation of the Treaty of Rome as amended by the Single Act.
35. The Commission's report shall be transmitted to the Council of Ministers, the European Parliament and the Economic and Social Committee.