

# EUROPEAN PARLIAMENT



*session documents*

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A4-0112/97

FILE COPY

## ANNUAL REPORT

on respect for human rights in the European Union (1995)

Committee on Civil Liberties and Internal Affairs

Rapporteur: Mrs Claudia Roth

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PE 218.951/fin.

- \* Consultation procedure  
simple majority
- \*\* Cooperation procedure (first reading)  
simple majority
- \*\* Cooperation procedure (second reading)  
simple majority to approve the common position  
majority of Parliament's component Members to reject or amend the common position
- \*\* Assent procedure  
majority of Parliament's component Members to give assent  
but simple majority under Articles 101, 102, 103a and 209 EC

- \*\* Decision procedure (first reading)  
simple majority
- \*\* Decision procedure (second reading)  
simple majority to approve the common position  
majority of Parliament's component Members to adopt a declaration of intended  
rejection of the common position and amend the common position or confirm its rejection
- \*\* Decision procedure (third reading)  
simple majority to approve the joint text  
majority of Parliament's component Members to reject the Council text

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By letter of 9 July 1996 the Committee on Civil Liberties and Internal Affairs requested authorization to submit a report on respect for human rights in the European Union.

At the sitting of 14 November 1996, the President of Parliament announced that the committee had been authorized to draw up a report on that topic.

At its meeting of 20 December 1995 the committee had appointed Mrs Claudia Roth rapporteur.

At its meeting of 29 May 1996 the Committee on Civil Liberties and Internal Affairs decided to incorporate into its report the following motion for a resolution:

- B4-0031/96 tabled by Mr Newman on hospitalized women prisoners restrained by chains, which had been referred to it on 14 March 1996 as the committee responsible and to the Committee on Women's Rights for its opinion.

At its meetings of 2 December and 17 December 1996, 27 January, 4 February, 10 March and 19 March 1997 the committee considered the draft report.

At the last meeting it adopted the motion for a resolution by 16 votes to 12.

The following were present for the vote: d'Ancona, chairman; Wiebenga, vice-chairman; Roth, rapporteur; Berthu (for De Villiers), Bontempi, Cederschiöld, Colombo Svevo, De Esteban Martin, Deprez, B. Donnelly (for Lucas Pires), Elliott, Ford, Lindeperg, Mohamed Ali, Nassauer, Paillet (for Vinci), Palacio Vallelersundi (for Reding), Pirker, Posselt, Pradier, Sauquillo Pérez del Arco (for Terron i Cusi), Schaffner, G. Schmid, Stewart-Clark, Tannert (for Marinho, pursuant to Rule 138(2) of the Rules of Procedure), Telkämper (for Orlando, pursuant to Rule 138(2) of the Rules of Procedure), Van Lancker (for Crawley) and Zimmermann.

The opinion of the Committee on Women's Rights will be published separately.

The report was tabled on 21 March 1997.

The deadline for tabling amendments will be appear in the draft agenda for the sitting at which the report is to be considered.

A  
MOTION FOR A RESOLUTION

Resolution on respect for human rights in the European Union (1995)

The European Parliament,

- having regard to the Universal Declaration of Human Rights,
- having regard to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and the protocols thereto,
- having regard to the United Nations Convention on the Elimination of all forms of Racial Discrimination,
- having regard to the United Nations Convention on the Elimination of all Forms of Discrimination against Women,
- having regard to the 1951 Geneva Convention and the protocols thereto, as well as to the recommendations of the UNHCR,
- having regard to the 1989 United Nations Convention on the Rights of the Child,
- having regard to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987),
- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms and the protocols thereto,
- having regard to the Treaties establishing the European Community,
- having regard to the Treaty on European Union,
- having regard to its resolution of 12 April 1989 on the Declaration of Fundamental Rights and Freedoms<sup>(1)</sup>,
- having regard to its resolution of 9 July 1991 on human rights<sup>(2)</sup>,
- having regard to its resolution of 12 March 1992 on the death penalty<sup>(3)</sup>,
- having regard to its resolution of 11 March 1993 on respect for human rights in the European Community<sup>(4)</sup>,

<sup>(1)</sup> OJ C 120, 16.05.1989, p. 51.

<sup>(2)</sup> OJ C 240, 16.09.1991, p. 45.

<sup>(3)</sup> OJ C 094, 13.04.1992, p. 277.

<sup>(4)</sup> OJ C 115, 26.04.1993, p. 178.

- having regard to its resolution of 19 January 1994 on conscientious objection in the Member States of the European Community<sup>(1)</sup>,
- having regard to its resolution of 27 April 1995 on racism, xenophobia and anti-Semitism<sup>(2)</sup>,
- having regard to its resolution of 18 January 1996 on degrading conditions in prisons in the European Union<sup>(3)</sup>,
- having regard to its resolution of 17 September 1996 on human rights in the Union<sup>(4)</sup>,
- having regard to its resolution of 29 February 1996 on cults in Europe<sup>(5)</sup>,
- having regard to the opinion (2/94) of the Court of Justice of the European Communities of 28 March 1996 (accession by the Community to the Convention for the Protection of Human Rights and Fundamental Freedoms),
- having regard to the European Social Charter adopted in Turin in 1961, and its additional protocol adopted in Strasbourg in 1988,
- having regard to the Community Charter of Fundamental Social Rights,
- having regard to the Final Declaration and action platform adopted in Beijing at the Fourth World Conference on Women,
- having regard to the fundamental principles of international and European law relating to human rights,
- having regard to the case law of the European Court of Human Rights,
- having regard to the motion for a resolution by Mr Newman on hospitalized women prisoners restrained by chains (B4-0031/96),
- having regard to the following petitions:
  - a) No 382/95 by Mr Johannes Pohl (German) on the UN Convention on the Rights of the Child,
  - b) No 459/95 by Mr Norbert Schneider (German) on behalf of the German Federation for the Protection of Children on proposals to improve the situation of children in the European Union,

<sup>(1)</sup> OJ C 044, 14.02.1994, p. 103.

<sup>(2)</sup> OJ C 126, 22.05.1995, p. 75.

<sup>(3)</sup> OJ C 032, 05.02.1996, p. 102.

<sup>(4)</sup> OJ C 320, 28.10.1996, p. 36

<sup>(5)</sup> OJ C 78, 18.03.1996, p. 31.

- c) No 464/95 by Mr Manfred Bruns (German) on behalf of the Federation of Homosexuals (SVD) on difficulties facing homosexual couples, one of whom is a third-country national,
  - d) No 597/95 by Mr Leo Klein Lebbink (Netherlands) and 704 cosignatories on amending the Staff Regulations of Officials of the European Communities,
  - e) No 684/95 by Mrs Jutta Birnbickel (German) on the UN Convention on the Rights of the Child,
  - f) No 741/95 by Mrs Helga Lechner (German), on the creation of a children's ombudsperson in the European Parliament,
  - g) No 792/95 by Mr Michael Becker (German) on the creation of a committee for children's rights in the European Parliament,
  - b) No 1029/95 by Mr Panagotis Karakolidis (Greek) on entry of his religion on his identity card,
  - i) No 1197/95 by Mr Russell J. Askew (British) on behalf of 'APART' (Absent Parents Asking for Reasonable Treatment) and by 32 500 other signatories, on the British Child Support Act 1991,
  - j) No 1223/95 by Mr Ruben Urrutia, on behalf of 'Coordination européenne pour le droit des étrangers à vivre en famille' (European Coordination for the right of foreigners to live as a family) with 147 signatures of chairmen of Family Associations, Immigrant Associations, Human Rights Associations and Lawyers Associations on two proposed amendments to the Treaty on European Union,
  - k) No 342/96 by Mr Presa (Italian) on the release of Greek conscientious objectors,
  - l) No 490/96 by Mr Reppas (Greek) on the release of Greek conscientious objectors,
- having regard to Rule 48 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties and Internal Affairs and the opinion of the Committee on Women's Rights (A4-0112/97),
- A. whereas respect for human rights is a fundamental attribute of any democratic order and forms the basis of community integration,
  - B. in consideration of Community action and of the special responsibility of the European Parliament in promoting human rights throughout the world,
  - C. nevertheless regretting that the codification and specific monitoring of fundamental rights that would guarantee observance of those rights under the Community rule of law is lacking at Community level,

- D. whereas it is the duty of the European Parliament to promote fundamental rights and freedoms and to seek to improve their protection, in particular within the Union,
- E. whereas the European Convention on Human Rights (ECHR) has been ratified by all Member States of the European Union,
- F. noting the opinion of the European Court of Justice (Opinion 2/94 of 28 March 1996) to the effect that, as Community law now stands, the Community has no competence to accede to the ECHR,
- G. whereas the Union is committed, pursuant to Article F(2) of the Treaty on European Union, to respect for fundamental rights as established under the ECHR,
- H. whereas Article K.2 of the Treaty on European Union specifies those areas in which the Member States are required to comply with the ECHR and the 1951 Geneva Convention; pointing out that the areas concerned are the following: asylum policy, the crossing of the external borders of the Member States, immigration policy, freedom of movement on the territory of the Member States, combating illegal work, combating illegal drug-dealing,
- I. whereas international law, Community law and the judicial traditions of the Member States, lay down without exception rules that the Member States are committed to observing.
- J. whereas respect for and protection of the rights of all persons present on the territory of the European Union represents a commitment on the part of the Member States that they are required to adhere to regardless of the ethnic origin, sex, sexual identity, nationality, religion, opinions, age or disablement of those concerned,
- K. concerned at the serious and inadmissible human rights violations that nevertheless occur in the EU,
- L. concerned at the existence of degrading detention conditions of both remand and serving prisoners,
- M. concerned at the number of remand prisoners detained in European prisons and at the absence of specific and appropriate arrangements for them,
- N. alarmed at the wave of racism, xenophobia and anti-Semitism that led in 1995, in particular in Germany, to numerous violent attacks on places of accommodation for refugees and foreigners,
- O. concerned at the erosion of fundamental rights and fundamental freedoms in parts of the EU,
- P. whereas terrorist acts violate many basic individual rights, including in particular the right to life, physical integrity and personal freedom, and whereas they may also to some extent threaten the internal peace, as well as the existence and functioning of democratic institutions, and jeopardize the achievements of a state governed by rule of law and the basic principles underlying the constitutional traditions and legislative order of the western democracies,

- Q. deeply concerned at the cases of torture, cruel, inhuman or degrading treatment of persons under arrest or in detention, including cases of death caused on occasion by the forces of public order,
- R. whereas in 1995 the European Court of Human Rights found against Portugal, France, the United Kingdom, Austria, Norway, Italy, Greece, the Netherlands, Denmark and Finland for violation of Article 6 of the ECHR, which establishes the right of an accused person to a fair and public trial,
- S. horrified at the extent and cruelty of criminal violence against children, ill-treatment and sexual abuse of children,
- T. whereas the number of registered asylum applications in the EU fell by half between 1993 and 1995 subsequent to the tightening-up of legal provisions and the difficulties of initiating asylum procedure, even although the incidence of persecution has increased alarmingly throughout the world,
- U. whereas the restrictive interpretation of the concept of persecution, the difficulties of initiating asylum procedure, the use of summary procedures in processing applications, abuse of the concept of a 'manifestly unfounded' application and detention conditions in remand prisons pending deportation also represent violations of human rights,
- V. whereas the penalties for offences of violence against the person as distinct from offences against property are often excessively lenient,
- W. whereas poverty and social deprivation in the EU can lead to human rights violations,

#### **Mechanisms for strengthening human rights**

1. Insists that human rights in the Union must be protected without reservation if efforts to secure their observance outside the Union are to be credible;
2. Takes the view that the Community integration process makes the introduction of a system for the protection of human rights at Community level and for monitoring the observance of human rights under Union legislation even more necessary and more urgent;
3. Undertakes as the sole democratically elected Institution of the Community, to publicize human rights violations in the Union;
4. Reaffirms its wish that the European Community should accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms, and calls on the Member States, on the occasion of the Intergovernmental Conference, to adopt the necessary changes to Community law to make accession to the European Convention on Human Rights possible;
5. Calls on the Intergovernmental Conference to confer a separate legal personality on the European Union in order that it too may accede to the ECHR;

6. Reaffirms that every person must be entitled to genuine protection against violations of their fundamental rights on the basis of European directives and regulations; points out that the protection afforded on the basis of the criteria laid down in Article 173 of the EEC Treaty for the admissibility of individual proceedings against a decision is insufficient, and that the options for bringing such proceedings must be enlarged by the Intergovernmental Conference; urges that the right to bring proceedings against Community decisions be extended to include legal persons;
7. Notes that the mode of operation and balance of the institutions of the European Union reveal a democratic deficit and a lack of transparency; notes that such a structure impedes democratic parliamentary and public control; advocates regulating a right of access to Council documents under an interinstitutional agreement;
8. Notes that not all forms of discrimination on the basis of nationality have as yet been completely removed in the Union and insists on their definitive abolition;
9. Urges the Intergovernmental Conference to add a new Article 6a to the Treaty enabling the concept of prohibition of any form of discrimination, which at present applies only on grounds of nationality, to be extended to include discrimination on grounds of race, ethnic origin, of colour, of sex, of sexual orientation, of age, religion, political or philosophical opinions, membership of a minority or a disablement;
10. Calls on the European Union to issue a European Declaration of Fundamental Rights, with the status of a full component of the Treaty and in which the rights of the individual, including economic, social, cultural and ecological rights, are clearly set out and firmly established;
11. Calls for the Protocol and Agreement on Social Policy and the Charter of Fundamental Social Rights to be integrated into the Treaty and for the European Union to accede to the Council of Europe's Social Charter;
12. Notes with satisfaction that on 27 September 1995 the European Union appointed a European ombudsman; nevertheless regrets the restrictions placed on his areas of responsibility and his powers;
13. Reaffirms that all agreements that the Union concludes with third countries must contain human rights clauses enabling appropriate sanctions to be taken, including the annulment of the agreement if necessary in the event of serious and persistent human rights violations or interruption of the democratic process;
14. Takes the view that agreements ratified by the Community and/or its Member States are binding and may not be the subject of a restrictive interpretation by the Council;

#### **The right to live and die in dignity**

15. Calls on the United Kingdom, Greece and Belgium, which have already signed Protocol No 6 to the ECHR, abolished the death penalty under their respective penal codes and stopped its application, to consolidate that abolition by ratifying the aforementioned protocol;

16. Calls on the Member States to refuse to extradite persons to states in which the death penalty exists for the offence in respect of which the extradition is sought;
17. Reaffirms that the right to life includes the right to health and consequently to medical treatment, and that this right must be afforded to all persons irrespective of status, health condition, sex, race, ethnic origin, colour, age, religion or convictions;
18. Calls for a ban on active euthanasia to the detriment of the disabled, patients in long-term coma, disabled new-born infants and the elderly; calls on the Member States to give priority to setting up units to provide palliative care for the terminally ill so they can die with dignity;
19. Maintains that to be able to live without fear for personal safety is a need of persons living within the Union;
20. Condemns wholeheartedly any use of violence or any threat to use violence as a serious and unjustifiable violation of citizens' fundamental rights;
21. Considers the existence and growth of criminal organizations to constitute a serious threat to the credibility of the rule of law, to the maintenance of the democratic order and to respect for human rights in the European Union;
22. Calls on the IGC to lay the foundations of a genuine European judicial area guaranteeing the security of persons in the Union by providing in particular for international letters rogatory and the results of investigations to be forwarded direct from one judge to the other without intervention by executive bodies and without using diplomatic channels;
23. Considers that the violation of certain basic rights perpetrated by some sects should be combatted by means of careful provision of information and application of the laws in force;
24. Voices its deep concern at the unlawful or criminal activities perpetrated by certain sects and at the violation by some of them of their members' psychological integrity, such violations being all the more serious as they sometimes concern minors;
25. Calls on the Member States, with due regard for the principles of the rule of law, to take whatever action is needed to combat violations of fundamental rights perpetrated by certain sects and, if the legal basis and grounds therefor exist, to provide for them to be prohibited;
26. Reaffirms that freedom of religion includes the removal of all forms of discrimination between religions, rites and cults and reiterates its request that the governments of the Member States should not systematically grant the status of religious organization and should provide for the possibility of depriving sects which engage in clandestine or criminal activities of this status, which confers on them tax advantages and a degree of legal protection;

## **The right to freedom from bodily harm**

27. Condemns emphatically the use of violence, torture or inhuman, cruel or degrading punishments or treatments inflicted on persons under arrest or in detention by the security forces or the forces of law and order; condemns the frequently racist character of such treatment;
28. Urges the Member States to take the measures needed to conduct thorough inquiries into justified complaints of ill-treatment, to investigate thoroughly the abuses of power which may result in such cases and to provide initial and ongoing training for police and prison officers to help prevent ill-treatment of prisoners;
29. Reaffirms that not only physical assaults but also threats, intimidation, verbal violence and sexual or racist abuse should also be considered as inhuman or degrading treatment and calls for an end to be put to such practices;
30. Urges the Member States to take the necessary measures to ensure that those responsible for such actions do not go unpunished;
31. Calls on the Member States to restrict the opportunities available to police forces for bringing charges of resisting arrest as a countermove to complaints lodged by victims of police assault;
32. Takes the view that the conclusions of the European Committee for the Prevention of Torture must be effectively implemented, and calls on the Member States to authorize the publication of all reports by that committee and to remove all obstacles to its activities;
33. Welcomes the fact that Denmark has adopted legal provisions introducing a new system for dealing with complaints against the police; urges Denmark nevertheless to incorporate its commitments pursuant to the Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment into its national legislation;
34. Calls on all Member States immediately to introduce and guarantee effective complaints procedures for prisoners;
35. Calls for persons who are placed under arrest to be informed in a language they can understand of their rights, including the right to lodge a complaint against mistreatment; for them to have the right immediately to inform a third party of their detention, to have access to a doctor of their choice, and for a lawyer to be present during interrogation;

## **Fundamental rights and freedoms**

36. Reaffirms that freedom of thought, conscience and religion and the freedom of association constitute fundamental rights of citizens of the Union;
37. Reaffirms that conscientious objection to military service, to the production and distribution of certain materials, to certain specific medical practices and to certain forms of scientific and military research is a fundamental constituent of the freedom of thought, conscience and religion; calls on Member States that fail to protect that right to guarantee it; urges in addition

- the removal of all forms of discrimination between European citizens on the grounds of military service;
38. Reaffirms its resolution 19 January 1994<sup>(1)</sup> on conscientious objection in the Member States, and recalls that Member States were urged in that resolution to introduce with immediate effect a civilian service of the same duration as military service;
  39. Calls on Greece to desist from persecuting conscientious objectors, immediately to release all conscientious objectors in detention, to adopt legislation recognizing the right to conscientious objection and simultaneously to introduce a non-discriminatory civilian service; urges Greece in addition to amnesty conscientious objectors detained and convicted, to remove all occupational and other forms of discrimination against them and to guarantee them freedom of movement in the Union;
  40. Calls on the Member States to ban all discrimination on grounds of religion, rites and cults, notably in the relationship between state and citizen; firmly states that the right to religious freedom entails the right freely to practise and express this religion;
  41. Calls on the Member States not to require their citizens to indicate their religion on their identity cards;
  42. Condemns unreservedly all tendencies to restrict press freedom and the pressures or intimidation to which journalists are sometimes subjected;
  43. Condemns the restriction on freedom of opinion in Ireland, where a law prohibits the publication of any material in favour of abortion;
  44. Reaffirms that the right of journalists to keep their sources of information secret is a fundamental attribute of freedom of information and freedom of the press, and calls for that right to be recognized in the legal provisions of all Member States as, for example, a right of refusal to give evidence;
  45. Reaffirms that freedom of the press is a fundamental right subject to such restrictions as may prevent the violation of other fundamental rights and that the exercise of that right must not be made dependent on administrative authorization or authorization by a professional association of journalists;
  46. Reaffirms that the right freely to express opinions entails the right of individuals to state their convictions publicly and peacefully; provided that this is done with due respect for the principles of a constitutional state and that such opinions are not racist in nature or constitute an apology for terrorism; rejects restrictions on the exercise of that right

<sup>(1)</sup> OJ C 44, 14.02.1994, p. 103.

47. Calls on Greece to guarantee the right to freedom of association and assembly by authorizing meetings of ethnic, religious or other minorities; points out that the ECHR recognizes restrictions to the freedom of association and assembly only in situations where the territorial integrity and the national security of a country are threatened or violated, and where the social peace is disturbed; consequently, any other restriction is unacceptable;
48. States that the right to found and/or join a union also applies in general to people in government organizations;
49. Calls for the right to decide whether or not to join a trade union to be recognized without that decision entailing any disadvantage whatsoever to those who exercise it; states that members of a union should be able to fulfill representative positions in that union regardless of their nationality;
50. Urges once more<sup>(1)</sup> the Member States and the countries interested in joining the EU to introduce rules for the recognition of the right of association within the armed forces for both conscripts and regular service personnel;
51. Endorses the practice of some Member States who have appointed special representatives whose main task is to ensure that human rights are respected in the armed forces and proposes that the European Ombudsman be given a similar remit;
52. Reaffirms that the European Union and its Member States should ratify and unreservedly implement the Social Charter of the Council of Europe; that they should adhere to the international conventions and recommendations of the ILO; and that the government of the United Kingdom should immediately sign the Agreement on Social Policy annexed to the Treaty on European Union;

#### The right to freedom of movement

53. Regrets that Article 7a of the Treaty, stipulating the entry into force of freedom of movement in the Union by 1 January 1993, has to this day still not been implemented;
54. Takes the view that the failure to comply with that commitment has been decisive in causing citizens to lose confidence in the European Institutions and in the European project;
55. Welcomes the fact that in July 1995 the Commission submitted three proposals for directives to improve freedom of movement in the Union; regrets, nevertheless, the delay in submitting these proposals, together with the fact that they are being made dependent on the entry into force of the relevant conventions on the basis of the third pillar;
56. Notes the entry into force of the Schengen Agreement on 26 March 1995 and its implementation from that date by seven Member States of the European Union;

(<sup>1</sup>) See attached parliamentary documents on the right of association for service personnel, some of which date back a long time: the EP initiative of 1984, the Council of Europe initiative of 1988, the Bertens initiative of 1995, the summary record of the EP hearing (question by Hundt) and the question submitted by Mr Konrad in 1996.

57. Regrets that this situation has consolidated certain internal borders in the Community and that the Agreement provides for a series of offsetting measures;
58. Repeats its wish for the Schengen implementing Convention to be brought under the authority of the Court of Justice of the European Communities;
59. Reaffirms yet again that freedom of movement must apply to all persons lawfully resident in the territory of the Union, and must do so regardless of their nationality;

#### Rights before a court

60. Points out that the independence of the judiciary is one of the pillars of a constitutional state and the ultimate basis for the effective protection of fundamental rights and freedoms for all people and in particular those required to appear before a court; considers that it is also necessary to ensure the impartiality of judges by distinguishing between the career of examining magistrate and that of judge, in order to ensure a fair trial;
61. Reaffirms its commitment to such universal legal principles as the principle of the independence of the judiciary, the principle of *non bis in idem*, the principle of presumption of innocence, respect for the rights of the defence and the principle that defendants shall not be required to prove their innocence but the state to establish guilt; is opposed to any limitations on the right to defence and stresses that, in the interests of genuine equality between prosecution and defence, evidence must be produced during the hearing and not a result of confessions extracted during custody or, even worse, allegations by informers;
62. Believes that any kind of legislation offering rewards to recognized criminals for making uncorroborated allegations in exchange for particularly favourable living conditions poses a serious threat to the rights of the defendant and is frequently counterproductive in the fight against crime;
63. Urges the Member States to provide for the possibility for any individual at any time to exercise his right to require that magistrates be held liable in the event of serious error or dereliction of duty on their part;
64. Calls on the Member States to carry out the necessary reforms to their criminal procedures so as to strengthen the rights and redress available to victims, placing the emphasis not only on punishing the guilty, but also on providing compensation for material damage and suffering experienced by the victims;
65. Requests that the rights of victims of crimes and terrorism also be protected and an adequate system of compensation guaranteed for these victims; with this in view, calls for all the Member States of the Community to adopt the European Convention on the Compensation of Victims of Violent Crime of 24 November 1983;

66. Calls on the Member States to provide adequate protection for witnesses as swiftly as possible taking into account the Council Resolution of 23 November 1995 on the protection of witnesses in the fight against international organized crime<sup>(1)</sup>;
67. Calls on the Member States to adopt the necessary procedural measures to overcome delays in legal proceedings, in compliance with Article 6 of the European Convention for the Protection of Human Rights;
68. Urges the Member States to continue to cooperate closely on combating terrorism, and in so doing to adhere strictly to the rule of law;

#### The rights of persons in detention

69. Endorses the conclusions of the Committee for the Prevention of Torture to the effect that a state that places human beings in detention also bears the responsibility for conditions of detention that are unworthy of human dignity;
70. Calls for the prison standards drawn up by the Council of Europe (R(87)3) finally to be implemented in their entirety in all places of detention;
71. Draws attention to the unacceptable conditions in European places of detention, in particular the serious problem of overcrowding and the abject material conditions and circumstances deleterious to health that prevail in the European penal system; calls on the Member States to improve living conditions and hygiene facilities in places of detention, to provide adequate medical staff, offer detainees useful occupational activities and regulate working conditions in prisons;
72. Calls on the Member States:
  - not to imprison minors,
  - not to sentence drug addicts for their addiction but to offer them treatment and social rehabilitation;
  - to provide prisoners with HIV or AIDS with conditions appropriate to the medical and psychological requirements deriving from their condition;
73. Calls for open or semi-open prisons to be used for less serious offences that pose no threat to third parties, along with conditional leave and all other measures conducive to rehabilitation; calls for increased use of alternative penalties to detention such as community service orders;
74. Calls for effective protection against assault be guaranteed in detention centres; for body searches and interrogations of female prisoners to be carried out by female personnel; for appropriate childcare facilities to be available to pregnant women and mothers with infants and small children held in detention;
75. Calls on the Member States immediately to launch a fundamental reform of the system of detention on remand;

<sup>(1)</sup> OJ C 327, 7.12.1995, p. 5,

76. Reaffirms the principle that imprisonment should in most cases take place at a location that is as near as possible to the detainée's family and/or social environment;
77. Welcomes the fact that on 1 November 1995 Ireland ratified the 1983 European Convention on the Transfer of Convicted Persons; regrets, nevertheless, that its application has been confined to a very small number of Irish prisoners serving their sentences in the United Kingdom;
78. Regrets the British Government's decision of March 1995 to extend the Prevention of Terrorism Act;
79. Emphatically condemns the practice of placing asylum-seekers in detention on remand pending deportation;
80. Calls for appropriate accommodation facilities to be provided for mentally ill persons who have been sentenced to a term of imprisonment;

#### **Rights of immigrants and right of asylum**

81. Reaffirms that the policy of 'zero immigration' has no effect in preventing the influx of immigration, but simply encourages unlawful residence; calls consequently on the Member States to refrain from viewing immigration solely from the restrictive, repressive, policing point of view, and to recognize the human dimension of the question and acknowledge the favourable impact immigration can have on society as a whole, and to incorporate criteria for lawful immigration into their legislative provisions;
82. Points out that human dignity is sacrosanct and that inviolable and inalienable human rights are therefore the basis of any human society, of peace and of justice in the world and hence must apply unconditionally to all people in the territory of the European Union;
83. Urges the Member States to take into consideration the fact that significant numbers of foreigners 'without identity papers' are persons who have lost their legal status as a result of restrictive legislation against foreigners; calls for that legislation to be amended and for such persons to receive a secure legal status;
84. Reaffirms that on the basis of the right to family life the right to reunification of families may in no circumstances be called into question, and that no family may be separated on account of the status of one of its members;
85. Reaffirms that eligibility for social security and education of children must be guaranteed independently of social and administrative status;
86. Urges Member States to grant regular legal status to persons who have been living for a considerable time with unlawful status and to guarantee that the irregular legal residence status of the persons concerned will not be used as grounds for their detention;
87. Calls on the Member States not to expel from their territory any person requiring medical treatment where failure to continue the treatment under the same conditions would jeopardize their chances of recovery or survival;

88. Points out that collective deportations are inadmissible under the European Convention on Human Rights;
89. Points out that the right of asylum is a universal right that is established pursuant to Article 14 of the Universal Declaration of Human Rights;
90. Calls, as regards the right of asylum, on all Member States of the European Union to apply in their entirety the 1951 Geneva Convention and the 1967 Protocol relating to the status of refugees together with the principles drawn up by the Executive Committee of the UN High Commissioner for Refugees and the ECHR;
91. Points out that the Geneva Convention makes no distinction between victims of persecution, whether perpetrated by state institutions or other bodies, where the state is unable or unwilling to afford the person concerned the protection that the latter can expect; renews its call on the Council and the Member States to recognize that victims of persecution by third parties or in situations of general internal violence require the same international protection;
92. Calls on the Member States to recognize the existence of sex-specific persecution;
93. Takes the view that the sanctions imposed on transport undertakings represent a significant obstacle to right of access and to asylum procedure;
94. Takes the view that an asylum-seeker may only be deported to a 'safe third country' if the state concerned has given the deporting state an absolute guarantee that the asylum-seeker's application will be scrupulously investigated under an appropriate and fair procedure;
95. Is concerned that the Council recommendation concerning the standard form of agreement on bilateral readmission between Member States of the Union and a third country does not contain adequate guarantees for the protection of asylum-seekers and refugees;
96. Urges the Commission, the Council and the Member States to apply the non-involvement clause provided for in Article 11 of the standard form of agreement with regard to the European Convention on Human Rights and the Geneva Convention relating to the status of refugees and to include further guarantees in order to ensure that:
  - the human rights situation in third countries is being studied objectively and as a whole,
  - asylum seekers, the substance of whose applications has not been investigated in accordance with the concept of safe third countries, be recognized in a third country as persons requiring protection and access to a fair and complete asylum procedure;
97. Regrets that the Council has again in 1995 dealt with the right of asylum in resolutions and other instruments that escape both parliamentary and judicial control;

*As regards the Council Resolution of 20 June 1995 on minimum guarantees for asylum procedures,*

98. Considers that the resolution on minimum guarantees for asylum procedures, which sets out a number of essential principles concerning commitment to the values of freedom, democracy and respect for human rights, fundamental freedoms and the rule of law, provides an important basis for the Community; recalls that Member States significantly have the right to lay down in their national provisions on procedural guarantees for asylum-seekers rules which are more favourable than those contained in the common minimum guarantees;
99. Is concerned that the resolution introduces exceptions to universal principles such as the suspensive effect of appeal proceedings as well as the principle that every decision relating to an asylum application must be taken by the competent authority;
100. Is concerned that the resolution introduces the concept of a 'safe third country' without however providing for adequate judicial guarantees against the repatriation of persons to countries where they are under threat of persecution;

*As regards the Council Resolution of 25 September 1995 and the Resolution of November 1995 on burden-sharing as regards the reception and temporary residence of displaced persons*

101. Urges the Council to conclude an agreement without delay on the temporary admission of refugees from civil war;
102. Considers it inappropriate for the humanitarian and military aid supplied by a Member State to be offset against its responsibility to admit refugees or displaced persons;

*As regards the common position of the Council on harmonization and interpretation of the concept of refugees of 23 November 1995,*

103. Regrets that the common position presupposes that persecution can apply only to individuals and excludes groups seeking refuge from civil wars and generalized armed conflicts;
104. Takes the view that the introduction of the concept of 'resettlement' in the country of origin will act as a further obstacle to securing refugee status in the Union;
105. Takes the view that, on the grounds of the subsidiarity principle, the Council is not competent to introduce any harmonization of the concept of refugees that restricts the scope of the Geneva Convention;
106. Notes with profound concern that in 1995 133 refugees are known to have died in the attempt to enter the territory of the Union;
107. Is deeply concerned by the part played by organized crime in illegal immigration;

## **Combatting racism and xenophobia**

108. Unreservedly condemns all forms of racism, xenophobia as well as anti-Semitism, and other discrimination on grounds of religion or ethnic-cultural background; calls for this condemnation to be formally written into the Treaty on European Union;
109. Welcomes the fact that the Council of Legal and Internal Affairs Ministers has adopted a joint action programme against racism and decided to declare 1997 as the European Year Against Racism; urges the Commission to continue to launch and support initiatives against racism, anti-Semitism and xenophobia in the Union, while seeking to complement the measures taken by the Council of Europe;
110. Calls on the Member States not to classify the dissemination of racist, xenophobic and anti-Semitic pronouncements as legal forms of freedom of speech but as a criminal offence and to adopt appropriate preventive measures;
111. Calls on the Member States to make every effort to prevent public-service officials, and in particular the forces of law and order, from exhibiting racist attitudes, and to call them to account whenever they display such behaviour;
112. Again emphasises the need to promote measures in the areas of education and training to combat racism, xenophobia and anti-Semitism effectively, and takes the view that such measures should concentrate on social workers, police officers, administrators of justice and students in schools and in higher education;

## **Economic and social rights and the right to social security**

113. Takes the view that poverty and exclusion are unworthy of a democratic and rich society;
114. Endorses the appeal launched by Father J. Wresinski, founder of the Fourth World organization, on the principle that if slavery could be abolished, so too can poverty;
115. Views critically the restrictions imposed on fundamental rights by poverty and marginalization, a situation that in particular affects persons of no fixed abode, who are effectively denied their political rights, including the right to vote;
116. Advocates the drawing up at Community level of a binding legal instrument laying down minimum guarantees in respect of income, social protection, and the right to medical treatment and housing as an essential prerequisite for ensuring a quality of life consistent with human dignity; calls for the policy pursued in this connection to devote particular attention to the needs of the elderly;
117. Is outraged at the deaths of numerous homeless persons and those of no fixed abode on account of severe weather conditions; calls for appropriate accommodation to be provided as a matter of urgency;
118. Takes the view that in parallel with social and economic protection measures, fundamental policy measures must be implemented so as to put an end to the process of social impoverishment;

119. Regrets that more and more local authorities, in particular in France and Germany, have decided to outlaw begging in their localities;
120. Calls on the Member States to recognize the special situation of travelling peoples (Sinti, Roma, and others), to show respect for their traditional lifestyles, guarantee them full observance of their fundamental rights and fundamental needs, and to refrain from any form of discrimination against such people and from subjecting them to any form of pressure to become permanently settled;
121. Calls on every municipality to comply with its legal obligation to provide suitable reception facilities for itinerant groups and calls on Member States to ensure that such requirements are complied with or are laid down in national legislation;
122. Takes the view that the right to work is a fundamental right, and that a universal duty of care is incumbent upon the Member States to protect that right; renews its call for appropriate measures to combat mass unemployment to be incorporated into all Community policies;
123. Supports the right to a basic minimum level of income in old age;

#### **The right to privacy and to self-determination with respect to information**

124. Insists that the right to respect for individual privacy, the home and the protection of confidential personal data are fundamental rights which it is incumbent on States to protect and consequently that any optical or acoustic surveillance measures must be adopted on the basis of the most rigorous respect for such rights and, in all cases, be accompanied by legal guarantees;
125. Recalls that the European Court of Human Rights recently imposed penalties for manifest violations of individual privacy and stressed that any violation of the home and of private communications, other than in exceptional circumstances laid down by law or subject to judicial scrutiny, represented a serious violation of human rights;
126. Calls on the Member States to adopt joint legislative provisions to protect these rights that take the extremely rapid rate of technological development fully into account;
127. Calls, in relation to databases such as SIS, SIE, SID and the Europol databank, for the right to protection of individual privacy to be respected, for no criteria to be used which discriminate against any social group, and for references to religion, philosophical or religious convictions, ethnic origins, health condition and sexual orientation to be excluded from these databanks;

#### **The right to non-discrimination**

128. Reaffirms that a place must be found in Community policies for the fundamental right of the disabled to equality of opportunity and non-discrimination;

129. Again stresses the right of the elderly to live with dignity and reaffirms the substance of its resolution of 24 February 1994 on measures in favour of the elderly<sup>(1)</sup>;
130. Reaffirms that the right to equality and the right to non-discrimination derive from Article 14 of the ECHR and Article 119 of the Treaty, and as such are protected rights that the Member States are committed to respecting;
131. Calls on the Member States to guarantee effective participation on equal terms in public life for women;
132. Calls on the Member States to implement as soon as possible the agreements reached on human rights at the Fourth World Conference of Women in Beijing;
133. Considers that the Convention on the Elimination of All Forms of Discrimination against Women should be supplemented with an optional protocol giving individuals and groups the right to bring complaints to court and that an additional protocol to the ECHR should be adopted on women's rights;
134. Considers that further study of the specific human rights situation of women is needed and calls on the Member States to take appropriate measures to combat sexually-oriented violence and other abuses of women's human rights;
135. Is disturbed at the increase in trafficking in women in the European Union and urges that European agreements be concluded soon to combat this degrading practice;
136. In this respect, advocates a European code of conduct against trafficking in women, taking as its starting point the needs of the victims and providing for the appointment of national rapporteurs on violence against women;
137. Points out that there are very many obstacles making it difficult for female asylum seekers to obtain refugee status and calls on the Member States in this connection to regard sexual violence as a form of torture;
138. Considers that Member States should grant migrant women specific rights;
139. Considers that Member States should refrain from concluding and applying bilateral agreements with countries which allow intolerable violations of the basic rights of women;
140. Sees a clear connection between economic dependence and vulnerability to sexual violence and therefore urges that all workers, including migrants working in domestic situations, be made aware that they are protected by legislation, which means that their being allowed to remain in the European Union does not entirely depend on the goodwill of their employer;
141. Reaffirms that no-one must be discriminated against on account of their religion, origin, gender, sexual orientation or opinion;

<sup>(1)</sup> OJ C 77, 14.3.1994, p. 24

142. Renews the call made in its resolution of 8 February 1994 on equal rights for homosexuals and lesbians in the European Community<sup>(1)</sup> for an end to all forms of discrimination and all forms of unequal treatment of homosexuals and lesbians, in particular as regards different ages of consent for homosexual acts and disadvantages encountered in relation to employment, civil, contractual, social, economic, criminal-justice and adoption law;
143. Takes the view that the absence of legal recognition for same-sex couples throughout the Union is tantamount to a form of discrimination on the grounds of nationality, in particular as regards freedom of movement and family reunification;
144. Is critical of the fact that Council of Europe provisions on ethnic groups and minorities have to date not been implemented, even by nearly all Member States, and that the call for a charter for national and linguistic minorities in the EU has not been taken up by the Council, the IGC or the Member States, for which reason the rights of ethnic and linguistic minorities present in many Member States are either not protected or are so only on a regional or national basis;
145. Stresses that no-one must be discriminated against on account of their belonging to an ethnic or linguistic minority and that specific assistance given to minorities to enable them to resist the pressure to assimilate exerted by the majority population does not run counter to the principle of equality but, on the contrary, helps to put that principle into practice;
146. Calls urgently on Austria to repeal its anti-homosexual legislation, and in particular the provisions fixing the legal age of consent for homosexual relations at 18 years, whereas for heterosexual and lesbian relations it is 14 years;
147. Points out that the foregoing provisions run counter to the recommendations of the Assembly of the Council of Europe (924/81);
148. Notes that the Commission of the European Communities has been condemned by the Court of Justice for violation of the ECHR subsequent to the abusive practice of requiring aids tests in pre-recruitment medical examinations (Judgment of 5 October 1994, Case C-404/92, P, X vs Commission);
149. Calls on Member States to introduce specific legislation laying down criteria and obligations for scientific research, with particular reference to genetic manipulation and the protection of embryos;

#### The rights of the child

150. Reaffirms that the right to education with a free choice of education system is a fundamental right and that Member States must ensure the provision of a free and comprehensive education for all;
151. Calls on the European Union to eradicate the economic exploitation of children in the form of child labour;

<sup>(1)</sup> OJ C 061, 28.02.1994, p. 40

152. Calls for mechanisms to be introduced for the purpose of monitoring and protecting the fundamental rights of children;
153. Calls on the Member States to harmonize without delay the minimum age for entry to occupational life by adjusting it upwards to 16 years, and at the same time to make free schooling compulsory up to that age;
154. Calls on the Member States to classify the use of physical violence against children as a criminal offence;
155. Calls on the Member States to agree on a Joint Action, setting up a centralised register of missing children, pending completion of the Convention on the European Information System;
156. Calls on the Member States to reinforce the incentives to prevent and eradicate gross neglect of children;
157. Calls on the Member States to launch searching investigations into child abuse;
158. Takes the view that close cooperation between medical services, public-health services and the judicial authorities is essential in taking effective action against child abuse;
159. Condemns unreservedly the sexual exploitation of children, child abuse in any form, and the degradation of children as sexual objects reduced to the status of commodities; calls for a total ban on the production, trade in, transport and possession of child pornography in any form, in particular in Sweden and Denmark, where the possession of paedophile materials is not penalized;
160. Welcomes the development of systems to lock out illegal and harmful content on the Internet; urges the Commission to work out a system of a European Quality branding for Internet access providers, and to support an international co-ordination in this area;
161. Considers that every child has a right to a family or to grow up in an environment similar to that provided by a family, as such environments improve a child's chances;
162. Notes that a child's right to grow up in a secure environment could be impaired if the right to divorce either does not exist or is subject to rules, e.g. on the apportionment of blame, which could adversely affect a child's relationship with one of its parents;
163. Calls on the Member States to uphold in principle a child's right to both its parents, even following a divorce;
164. Considers that a child must be consulted as to who is to be its guardian in the event of its parents' death, and that the wishes of the child should be given greater weight the older it gets and be the deciding factor after it reaches a certain age;
165. Calls on the Member States to adopt provisions making it possible to bring criminal prosecutions against tour operators and airlines who advertise sex tourism;

166. Calls for the penalties for trafficking in children and for sexual violence against children to be made more stringent in all European countries, and for all Member States to adopt legislative provisions on extraterritoriality making it possible for them to prosecute offenders on their territory for criminal offences committed in another state;

#### The right to a healthy environment

167. Reaffirms that the right to life implies a responsibility to present and future generations that cannot be discharged otherwise than by showing greater respect for nature as the inescapable prerequisite for survival;
168. Takes the view that it is incumbent on the public authorities to guarantee a healthy environment for all, and to create options enabling everyone to influence decision-making affecting their environment;
169. Calls on the Member States to harmonize national legislative provisions and penalties for infringements against environment protection measures in accordance with the 'polluter pays' principle;
170. Calls for the export of all materials, foodstuffs, pharmaceuticals and comparable products, the marketing of which is prohibited in the European Union, to be banned;

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171. Instructs its President to forward this resolution to the Commission and the Council, the governments and parliaments of the Member States and of those states that have lodged formal applications for accession to the European Union.

## B EXPLANATORY STATEMENT

### INTRODUCTION

'... the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights'.

The same text appears almost verbatim in the preambles of two major UN covenants, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Both date from 1966 and have been signed by over 100 states. This means that the dispute that has been taking place in the European Parliament over the last few years is actually incomprehensible.

The reports on the human rights situation in the European Union have always triggered vigorous controversy about what is actually meant by 'human rights'. Some members of Parliament have refused to discuss poverty and unemployment in Europe under the heading 'human rights'. Even the inclusion of the situation of women, the handicapped and refugees under this heading has generated controversy.

This state of affairs would cease if we took the 1966 UN covenants seriously. For the Covenant on Economic, Social and Cultural Rights states quite clearly that questions relating to employment, wages and working conditions are human rights matters.

We must take the UN concept of human rights as our basis, and this comprises three central categories: firstly, what might be termed the negative rights to freedom, i.e. the right of each person to enjoy freedom from unjustified state coercion and other violence. Secondly, the positive rights: these guarantee the participation of the individual in political and social decision-making processes. And thirdly, social rights and the right to development which are invoked particularly by third world countries: they insist that civil and political rights also include the conditions that are necessary in order to exercise these rights. These are the human rights of the new, the third generation.

If both the rich and poor are equally entitled to sleep under bridges, this is a very inadequate and cynical type of freedom from the point of view of the latter; this freedom alone is not enough. The purpose of social human rights is to ensure freedom, equality, and codetermination under the conditions of an industrialized society. Social human rights complement the traditional liberal freedoms. This matter is worth thinking about, as last winter shows: at the end of 1996/1997 many people froze to death in central and northern Europe. The news programmes reported that they died of cold. In fact they died of poverty.

Although human rights have become a key concept in international politics and are found in almost all constitutions and in conventions, resolutions and statesmen's speeches, arguments about the contents of these human rights have become increasingly heated; EU human rights reports have given warnings about social human rights over the last few years, but people have been quick to call these 'political demands'. However, it should be remembered that every demand for human rights is highly political, and, indeed, the more directly these demands affect us, the more political they become.

It is easy to call for human rights elsewhere, especially those which we consider that we respect in an exemplary manner. However, it is difficult to admit failings in one's own country - there is a tendency to trivialise these failings and a strong reluctance to see them labelled as human rights violations.

We have often enough condemned crimes elsewhere; this report is, however, about our own failings. If we are to be credible, we need to examine conscientiously our own human rights record in the European Union. We cannot - and must not - console ourselves with the thought that the situation is much worse elsewhere. As Bert Brecht said: 'Let everyone speak about his own disgrace'.

In drawing up a report on the human rights situation in the European Union we must avoid hypocrisy. We cannot - and must not - create a separate European Union human rights concept which would ultimately generate the suspicion outside the European Union that we are defining human rights according to our wishes in order to appear in a favourable light. Our report on human rights must therefore be based on the human rights concept applicable to the United Nations. This is not only an act of fairness and a move to bolster our credibility vis-à-vis those states which we criticize often enough in our resolutions: it is also our duty arising out of the UN covenants signed by the EU States. Civil and political human rights cannot be achieved without at the same time achieving economic, social and cultural human rights. The reverse is also true. That is the true meaning of the frequently quoted remark 'human rights are inalienable'. In speaking of the human rights situation in the EU we therefore need a holistic approach. This is what this report sets out to do.

Amnesty International's annual reports list the sufferings of the world and constitute a dismally traditional register of everyday human rights abuses. The 1995 report gives a list of torture, rape and murder over 637 pages, describing lawlessness and deprivation of freedom in 151 states. We read these reports with a mixture of indignation and horror. Sometimes one has the impression that we Europeans stand and speak like the Pharisee in Luke 18, 11: 'God, I thank thee, that I am not as other men are'. A European report on human rights must not succumb to this self-righteousness.

We enjoy celebrating our role as defenders of human rights. In 1991, on the 40th anniversary of the Geneva convention on refugees, Michel Mousalli, the then head of the international legal protection department with the UN Commissioner for Refugees, gave the sober verdict: 'there is nothing to celebrate'. For the dominant EU doctrine interprets the convention on refugees in such a way that the victims of civil wars and domestic unrest are no longer protected. The political line informing the current interpretation of the convention is that the waves of refugees should not be covered by it.

This report clearly addresses the situation in the individual EU Member States. Anyone who criticizes this approach as interference in the internal affairs of states shows his ignorance of international law. It is now generally recognized that human rights - and this was recently confirmed at the 1993 Vienna Conference on Human Rights - are no longer the internal affairs of individual states. No government - not even a European one - can justifiably complain about unacceptable interference if it is criticized for human rights abuses.

Whoever wants to reduce the number of human rights - or even half them - should bear in mind the words of President Roosevelt when he formulated the anti-fascist war objective in 1941: he said that freedom from material want should have the same status as freedom of speech, freedom of belief and freedom from fear. It is impossible to express it more simply and poignantly. Roosevelt was 25 years ahead of the 1966 UN Covenants. In 1997 we must not fall behind him.

## **I. Instruments to promote human rights**

The objective of the present report is to list human rights violations in the European Union, as an expression of our joint endeavour to protect people in all their rights and to make Europe an area in which law and peace and freedom prevail, human dignity is respected and people do not have to fear for their lives and their dignity.

In order to bolster the European system for protecting human rights, not only the Member States of the European Union, but also the European Union itself should become members of the European Convention on Human Rights (ECHR). The accession of the EU would dramatically change the system for protecting human rights, strengthen it and establish respect for human rights as a priority objective of the Community.

In accordance with the opinion of the Court of Justice of the European Communities of 28 March 1996 (2/94), accession can only take place after a change in Community law. This must take place within the framework of the current intergovernmental conference.

The European Union should draw up a list of basic human rights. The absence of such an instrument is a substantial deficit in the European system for protecting human rights. The construction of Europe must not be limited to promoting economic progress. Each policy must also be a human rights policy, but this should not be limited to citizens of the Union, but must apply to all people living in the European Union.

The systematic inclusion of a human rights clause in all agreements between the European Union and third countries would be an expression of the political will to combat human rights violations everywhere and genuinely to eradicate them. A clause of this kind would, however, need to be more than merely symbolic: infringements must trigger sanctions, even including the dissolution of the agreement in question.

## **II. The right to life and death in dignity**

### **Euthanasia**

In some European countries there has been a substantial increase in a particular form of violation of the right to life through active euthanasia. For example, although active euthanasia and euthanasia assistance are theoretically prohibited in the Netherlands, they have become possible by a change in the rules governing burial. The doctor testifying death notifies the public prosecution service. If a series of conditions, such as the approval of the patient, the consultation of a further doctor etc. are fulfilled, the public prosecution service lets the matter rest. Active euthanasia without consent is now also tolerated, for example, in the case of very badly handicapped new-born babies. This rule is a judicial monster.

Active euthanasia is a crime expressly forbidden by the ECHR: the unrestricted right of all persons to life is enshrined in Article 2. The European Parliament has repeatedly vigorously opposed attacks on the right to life of handicapped persons, patients in permanent comas and handicapped new-born babies, who are those usually affected by illegal active euthanasia in Europe.

Every year in Germany alone 50 000 people suffer severe brain damage by accidents, poisoning, suffocation, inflammations, tumours, or strokes. Some 3 000 persons fall deeply unconscious (apallic

syndrome). Medical science knows very little about these patients: whether they may wake up again after a long period of time or whether they feel anything, and if so what. The London Centre for medical law and ethics sent a questionnaire to neurologists in all EU countries in 1995 with very specific questions (deprivation of food after three, six or twelve months or longer) and multiple choice answers. One question it failed to ask was whether this procedure should be rejected as a matter of principle.

Relatives of such patients, self-help groups, doctors, nurses and nursing staff spoke of murder, and of a monstrous plan to starve to death extremely ill persons. The way was being opened for active euthanasia in respect of the insane and the handicapped, and the right to life of sick persons was being made dependent on their usefulness and the costs they generated. They were being moved from hospitals which could no longer afford to treat them to homes, although the latter lacked specialized staff.

This criticism is fully justified: a patient in a coma suffers when he does not receive any fluid, but he cannot communicate this. This is why to deprive patients of food is indefensible. Basically we must describe every act and omission which is directed towards letting a person die, as active euthanasia. No public prosecutor would accept a mother's failure to feed her baby as passive euthanasia.

It is, of course, not enough to condemn active euthanasia. The EU countries should be encouraged to promote establishments to look after the dying. The hospice movement in the United Kingdom is a good example of this. The dying are accompanied in the last phase of their lives in the best possible way so that they die with dignity. State-promoted care of this kind is also in a position to counter the excesses of private euthanasia organizations. More and more people are members of private euthanasia organizations. They invoke the right of the incurably ill to opt for death. We are here confronted with the insoluble problem of how to put an end to unbearable suffering in a humane society. However, euthanasia is not always concerned with this. Remunerated euthanasia in which obscure organizations make a profit out of other people's deaths must be totally rejected. It is scandalous that the sufferings of people in the last stage of their lives should be exploited. This is why the state must finance and promote the organization of care for the dying.

### The Death Penalty

Fortunately, the death penalty has been abolished in all Member States of the European Union as a violation of the right to life, now that Belgium (1996), Greece and Italy have agreed to abolish it.

However, the United Kingdom, Greece and Belgium have still not ratified the international instruments on the abolition of the death penalty, and in particular Protocol No 6 of the ECHR. There is therefore a risk that the death penalty may be reintroduced. These three states are therefore urged to demonstrate their will finally to abolish the death penalty de facto and de jure by initiating the relevant ratification procedures.

In addition, steps must be taken to ensure that persons threatened with the death penalty in third countries may not be extradited there; any other decision constitutes a state violation of the right to life.

## Terrorist Violence

The right to life is threatened by terrorist organizations. Terrorism is a crime against innocent people.

In 1995 terrorist attacks attributed to ETA killed 15 persons and injured 47; in Great Britain there were 6 terrorist attacks causing considerable damage; in France a whole series of attacks left 22 people dead and over 140 people injured.

No possible political motive or demand can justify these horrors. Terrorism must be vigorously combated. However, despite the gravity of such acts of terrorism, all measures taken against terrorists must respect human rights. Human rights violations cannot - and must not - be answered by human rights violations. The state must be differentiated from criminals not only by its objectives, but also by the choice of its methods.

The European Court of Human Rights has repeatedly condemned Turkey for violating human rights. These condemnations do not refer to past events. Terror and torture are still widespread in that country. Despite promises to the contrary, the situation in Turkey continues to be as follows: people 'disappear' or are killed by state assassins, critical remarks by dissidents land them in prison. This applies particularly to the Kurdish territories. Actually these horrors have no place in a report on human rights in the European Union, because Turkey is not a Member State. However the blame for human rights violations lies not only with the perpetrators of these violations in the army and police: those who supply the weapons with which human rights violations are perpetrated also shoulder some of the responsibility. These include Member States of the European Union - especially the Federal Republic of Germany, which in 1995 alone approved some DM 180 million in arms transfers to Turkey. It is cynical to speak in this context of a 'responsible arms export policy'. In terms of penal law, Germany is guilty of aiding human rights violations. We must demand that all Member States finally put an end to all exports to countries such as Turkey.

### III. The right to freedom from bodily harm

This report also emphatically condemns torture and other types of inhuman or degrading treatment and punishment.

The European Court of Human Rights stresses in its judgments that any use of physical force against a detained or imprisoned person which is not absolutely necessary owing to the conduct of the latter, constitutes a violation of human dignity and of Article 3 of the ECHR which guarantees the right to freedom from bodily harm: 'no one shall be subjected to torture or to any inhuman or degrading treatment or punishment'.

In 1995 the Court condemned Austria and blamed the Austrian Government for the inhuman and degrading treatment of an Austrian citizen, owing to the way in which he had been treated by police officers in police custody. He had been brutally beaten by the officials responsible for interrogating him, in order to extract a confession.

The United Kingdom was condemned owing to an even more serious violation of Article 2 of the ECHR ('Everyone's right to life shall be protected by law') because of the maltreatment by the security forces of three IRA members. The use of life-threatening force by the state cannot be justified by the fact that the victims were terrorists.

#### IV. Fundamental rights and freedoms

Greece has still not introduced the right to conscientious objection. 310 conscientious objectors are still imprisoned, because they refuse to perform military service for reasons of conscience. Almost all these conscientious objectors are Jehovah's Witnesses and refuse to wear uniforms. Prison sentences can last up to 4 years and 8 months; in addition they forfeit their civil rights and are banned from access to the professions and from holding public office. They may not be issued with passports, and this means that they cannot leave the country.

Other European countries violate freedom of conscience, in particular, Austria, Spain, France and Portugal, where a refusal to do military service on grounds of conscience is only recognized after the call-up for military service. These countries also have conscientious objectors in prison.

The European Court of Human Rights has repeatedly admonished Greece for violating Article 9 of the ECHR, because it forces Greek citizens to state their religious faith in their identity papers.

The European Court of Human Rights has repeatedly confirmed that the right to freedom of expression (Article 10 of the ECHR) constitutes one of the essential foundations of a democratic society and a priority condition for the progress of this society.

In 1995 a violation of this right was again detected in Ireland: the sale and circulation of publications and the showing of films or pictures in favour of abortion are forbidden. This law clearly infringes the right to freedom of expression, and also the right of every woman to information about her rights.

In 1995 Germany was condemned by the European Court of Human Rights for violating the right of assembly and the right to freedom of expression, because German officials are not allowed to belong to the German Communist Party, on pain of dismissal for 'political unreliability'.

In Greece freedom of association and assembly are violated because minorities are refused the right to gather together peacefully to campaign for the recognition of their rights.

#### V. The right to security

The moral standards of society are becoming increasingly difficult to determine, as the authorities which used to be the guarantors of public morality and the structures for imparting this moral outlook are both failing in their duty. The 'good' has lost its place, while the 'bad' has unfortunately remained. However, it no longer appears as a threateningly elemental evil but, as a sort of technical hitch in society's progress. In order to address this problem, the matter is referred to the legal authorities, which immediately turn out to be hopelessly out of their depth. The climate is ripe for populists. They exploit people's quite legitimate desire for security to call for stricter laws, tougher penalties and greater powers for the police and public prosecutors. Not all of these demands are completely reprehensible. Here and there there may be a genuine need to adapt laws to a changed situation. However, any politician who suggests that evil may be contained merely by getting tough on law and order should be viewed with scepticism. Prosecutions in connection with the Internet or other data networks fail not only because of technical problems but also because of the volume of offences. The Internet is a reality worldwide, both for good and evil. This does not mean that the police and public prosecutors should do nothing. We should merely stop creating illusions about the omnipotence of justice and promising total security.

## VI. The rights of people in detention

The European committee against torture has repeatedly pointed out that when a state detains a someone, it is responsible to ensure that this occurs under humane conditions.

In its report on conditions of detention in 1995, the international observatory for prisons drew attention to the overcrowding of many European prisons. This is one of the major problems: the occupation rate of prisons in Greece is 168%, in Italy 128%, in Portugal 126%, in Belgium 118% and in France 111%. Some prisons even have an occupation rate of 250%, in particular the French prison of Béziers. The only solution to this problem is to build new prisons and employ more staff; however, it is even more important to promote alternatives to imprisonment. Imprisonment must be the last resort.

Human rights organizations are unanimous in condemning the deterioration in living conditions in European prisons. This situation is due to a general tendency towards longer periods of detention, and the age and poor state of prisons, the lack of adequate sanitary facilities, the lack of activities for prisoners and the wretched working conditions. All these factors have contributed to a situation in which imprisonment in some European prisons is tantamount to inhuman and degrading treatment.

The health of many prisoners is also poor. The report drawn up by the European committee against torture in 1995 on conditions in Irish prisons draws attention to the lack of adequate medical care (no psychiatric service, very few nurses, very superficial medical examinations, etc.).

Although the use of drugs and sexual practices due to imprisonment are well-established facts, there is no coordinated policy to combat AIDS. In view of the number of prisoners who are drug addicts and HIV positive, all European countries are acting irresponsibly, since they are failing to pursue any preventive health policies in prisons. Special treatment should be introduced for drug addicts as fast as possible in all European prisons, and alternative drugs and suitable therapies should be on offer. Prisoners in Italy stay in prison even when AIDS has reached an advanced stage and are not transferred to more appropriate institutions.

The death rate in prisons is alarmingly high: in 1995 there were 74 deaths in British jails, including 59 suicides, 3 deaths by overdose and 3 murders; the suicide rate in Britain is ten times higher in prison than outside.

In France 107 prisoners committed suicide in 1995 and many deaths are due to the indifferent attitude of the prison staff towards prisoners in distress. The same applies to Italian jails.

The European committee against torture in its 1995 report following a visit to Italian jails denounced the routine maltreatment of prisoners (in particular foreign prisoners) in Italian jails. Its 1995 report on a visit to Ireland speaks of a tendency on the part of the prison staff to use violence.

According to Amnesty International in 1995 the security forces in almost all the European states were guilty of torture, cruel punishments and maltreatment. This applies particularly to France and the UK where several persons have died while being arrested, in police custody or in prison, owing to their treatment by police officers or prison staff. In Germany maltreatment is often racially motivated.

All Member States are united in condemning torture and inhuman and degrading treatment and punishments as unacceptable practices unworthy of a civilized society. There are severe punishments for such practices in the national legislations of all Member States. Nevertheless, the number of

complaints of ill-treatment is continually rising. It seems that they are being increasingly played down by the authorities.

The main victims of maltreatment at the hands of police officers, prison staff and fellow prisoners are foreigners, applicants for asylum and persons with unclear residence status. These people who are particularly vulnerable owing to their situation, the increasingly repressive legislation and the generally hostile environment are often seen as scapegoats. If the victims complain, no one understands them. If someone understands them, no one believes it. If someone believes them, they are deported before they can initiate legal proceedings against the perpetrators.

As the European committee against torture has demanded, the Member States must introduce an effective complaints procedure for prisoners who feel that their rights have been violated; these complaints must be followed by appropriate investigations and must lead to penal and disciplinary sanctions within the shortest possible time and after exhaustive and impartial investigations.

Victims who complain against police and prison officers must be protected from intimidation. The police strategy of charging a prisoner with resisting state authority after the prisoner has himself charged the police with maltreatment, must be punished, if it turns out that the sole purpose of the police action was to discredit the charge brought by the victim.

Prisoners must be informed - in a language they can understand - of their rights, including the right to complain against maltreatment. They must be in a position to notify a third person immediately following their imprisonment. The presence of a lawyer during interrogations is essential if the rights of the prisoner are to be respected. It is a basic right that any person who claims to have been maltreated should be entitled to be examined by a doctor whom he trusts.

Other points should be mentioned: in France remand prisoners can spend up to five years in Jail; in Italy 45% of prisoners are remand prisoners; and 55% of prisoners in Luxembourg are in prison for drug offences. The absence of legal provisions concerning the particular situation of remand prisoners is intolerable, since this undermines the principle of the presumption of innocence set out in Article 6 of the European Convention on Human Rights.

## VII. The right to asylum

The European Union's current policy on refugees is intended to deter refugees. It is urgently necessary to formulate a common policy on the admission of refugees. It must not be based on the smallest common denominator, but at least on the standards set out in the Geneva convention on refugees.

The provisions regarding third countries in the asylum procedures pass the refugee helplessly from one country to the next. Each country relies on the fact that the next country will harbour the refugee. However, real protection is nowhere to be found. In this way the existing refugee conventions are totally undermined.

Asylum policy today consists solely in preventing alleged abuses. Asylum policy consists of intimidation. All the measures are designed to prevent refugees from reaching an EU country. If they nevertheless succeed in doing so, the second level of European asylum policy comes into play: they must be got rid of as fast as possible and their lives must be made as unpleasant as possible for the duration of their stay. People talk quite openly about deterrence. This deterrence consists of:

employment bans, poor housing in mass accommodation, poor social and medical care and imprisonment pending deportation. All this is diametrically opposed to the letter and spirit of the rules developed after the Second World War to protect refugees in Europe. The restrictive interpretation of the concept of persecution, the difficulties in submitting an application for asylum, the speeded-up application procedures, the notion of a 'clearly unfounded application' and the conditions in the refugee camps constitute violations of the Geneva Convention, the Universal Declaration of Human Rights, the UN Covenant on Civil and Political Rights and the European Convention on Human Rights.

### **VIII. Measures to combat racism and xenophobia**

A wave of racism and xenophobia is sweeping through the countries of the European Union. The repeated attacks on hostels for asylum-seekers in Germany in 1995 provide dramatic evidence for this. Xenophobia is gaining ground in France, Germany, Austria, the UK and Italy. There are reasons for this, including legislative ones: German aliens law, for example, accepts the immigration that has long been a reality only very grudgingly. Every concession made by the law is hedged about with conditions. This ambivalence is what makes the law so complicated; it is a labyrinth in which immigrants are hopelessly lost. The law continues to see foreigners as a threat to public safety and order, as potential criminals, rather than as subjects who enrich our society and culture. Legislation on foreigners is in danger of becoming a laboratory for European neo-nationalism. A hierarchy is being developed: the only 'good' foreigners in EU countries are citizens of other Member States. All the others - migrant workers, refugees - are second and third-class people. They are being increasingly deprived of their fundamental rights, above all the right to be joined by their families. This is a breeding ground for aggressive right-wing propaganda which the Member States are not doing enough to combat.

Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination calls for a ban on racist propaganda, for example, the dissemination of any ideas based on the superiority of one 'race' over another; it also demands a ban on organized propaganda and any other form of propaganda which constitutes an incitement to racial discrimination.

The present legislation is obviously inappropriate; furthermore, it is not being implemented, since it does not enable practices of this kind to be classified as crimes. The dissemination of any racist statement must be classified as a crime, so that racism is no longer seen in all European countries merely as an act of freedom of expression but, because it stirs up hatred and contempt, as a crime.

### **IX. The right to non-discrimination**

Women are still subject to discrimination. The Member States must promote and respect equal rights for women and combat sexist stereotypes.

The underlying social and economic disparities between men and women still constitute an attack on human rights, the principle of equal rights enshrined in Article 14 of the European Convention on Human Rights. The legal instruments for equal opportunities are not being implemented, and there are constant violations of the principle of equality of opportunity in professional life; in both the public and private sectors, pay differences continue to exist.

Women are worse affected than men by unemployment and poverty. Only in Sweden, Finland and Denmark are the disparities less pronounced. In Greece and France women play an insignificant role, particularly in political life.

Women's right to freedom from bodily harm is being violated: violence in the family, sexual violence, psychological torture and sexual harassment.

No person may be disadvantaged and have his rights restricted owing to his sexual identity.

In most European countries gays and lesbians suffer discrimination in practically all areas of life. Gay and lesbian couples are disadvantaged as far as inheritance law is concerned, they may not make joint tax declarations, where one partner dies the lease is not usually transferred to the other partner, they have no access to social housing etc. They are thus refused equal treatment before the law owing to their sexual identity.

All discrimination against gays and lesbians must be eliminated as a matter of urgency at European level, and this must take place by the legal recognition of different ways of life. In the European Union gay and lesbian couples are only recognized in Denmark and Sweden, and even there they suffer discrimination in adoption law.

#### X. The right to basic social security

Poverty is on the increase in the rich countries of the European Union. More and more persons are homeless and dependent on social security and state aid.

There is a more insidious form of violence against children than bodily violence - and there is also another form of abuse: its name is poverty.

More and more children and young people are living on, or under, the poverty line. The UN committee on children's rights castigated the poverty of many children in Germany as shameful. In 1981 the European Community defined the poverty threshold as follows: a person is poor who earns less than 50% of the average income; according to welfare organization reports, 7.3 million people come into this category in Germany alone. The rise in petty crime by young people is connected to this. Young people in particular have difficulty in coming to terms with the fact that they are living in a world which offers opportunities only to the wealthy. What is needed is a policy which also gives children basic social security and attempts to guarantee them equality of opportunity. The best law and order policy is - and always has been - social policy.

All these problems cannot be solved by sweeping them under the carpet. Unfortunately there is a tendency in the European Union towards repressive measures - the ban on begging in a number of French and German cities is a particularly unpleasant example. Even in the Middle Ages, legislation in Europe did not go so far as to ban begging. The economic crisis cannot be defused simply by banning the victims of this crisis, namely the poor and homeless.

## XI. Children's rights

Children's rights are violated in Europe as in the rest of the world.

In a number of European Union Member States child labour is widespread and cases of the abusive use of child labour continue to occur. In the United Kingdom labour legislation sets the minimum age as 13 years; more than 2 million children work on a regular basis in the UK.

The European Union must act vigorously to ban child labour. The minimum age for beginning work must be harmonized as a matter of urgency and compulsory schooling must exist in all European countries up to the age of 16.

The number of child abuse cases is steadily rising in Europe and child protection measures are badly flawed in all European countries: closer cooperation is needed between the medical services, the socio-medical-services and the legal authorities.

Violence against children and gross negligence which seriously affect the physical and psychological development of children must be classified as a criminal offence in the Member States.

The scale of child abuse in Europe must be understood if this phenomenon is to be eliminated since abused children often become abusers as parents.

The sexual exploitation of children, the abuse of children in various forms and the degradation of children as sexual objects seem to have reached an unprecedented level of repulsiveness. Today children in Europe - as in the rest of the world - have become sexual objects, commodities and the objects of all kinds of perverse behaviour.

This has triggered a vociferous public outcry. People are calling for more preventive imprisonment, and for the danger to be locked away for life, for the compulsory castration of sex offenders and draconian punishments, no mercy for those who themselves showed no mercy; and some are even calling for the hangman. What should be done? It has been shown many thousands of times over the centuries that even the most savage punishment does not deter criminals. In many places imprisonment is used as a left luggage area: to keep offenders locked up for a time. This is where improvements should take place. It is dangerous to demonize social rehabilitation. The best way to protect the public is to rehabilitate offenders, not to keep them for slightly longer behind bars. Even the castration of sex offenders is ineffective because, apart from other considerations, it tackles sexuality but not aggression. There is therefore no point in just keeping offenders behind bars. Something must happen with them there: social rehabilitation is no utopian pipe-dream, but a bitter necessity. As far as the early release of prisoners is concerned, the principle of *in dubio contra* should apply: in other words they should not be given the benefit of the doubt. The public must not be put at risk. However, despite all diagnoses and forecasts, a residue risk will always remain. Legal practice and policy can only endeavour to minimize the risk as far as possible.

Violence against children is an everyday occurrence, as is the fact that intolerable burdens are being placed on parents. Whoever condemns these crimes out of hand as 'hellish' is closing his eyes to the frequency of child abuse. What is really 'hellish' is to deny it. For example, in Germany between 80 000 and 100 000 children are abused annually; 150 000 children are sexually abused and between 600 and 1000 children are killed every year by their own parents. Brute force is the most widespread kind of abuse, and children are hit with every available object: straps, sticks, coal shovels, pokers and

ladies. Whoever takes the view that violence against children occurs only in so-called problem families is mistaken: in the more socially advantaged families it is more frequently undetected. It is impossible for statistics to show how often parents lose their self-control. What these statistics do show, though, is bad enough: bruises, scalding, bites and brain damage. The perpetrators are punished too late, if at all. State authority is obviously not vigilant enough, and aid for children and young people is oriented towards repression.

The unrestricted right of children to childhood, the right to develop freely and the right to live a life worth living must be solemnly confirmed by all European countries. The only solution is for the Treaty on European Union to incorporate provisions on child protection.

Effective censorship and a radical ban on all child pornography must be introduced in all European countries, particularly in Sweden and Denmark where the possession of paedophile material is not prosecuted.

Following the practice in Germany and France, the Member States should adopt provisions on extraterritoriality to allow a criminal to be prosecuted on their sovereign territory for a crime committed in another state in the same way as he would have been in his own country.

## **XII. The right to a healthy environment**

It is now recognized that environmental pollution can be so serious that it violates the individual's right to freedom from bodily harm, to privacy and freedom of movement.

The right to an ecologically sound and stable environment follows necessarily from the European Convention on Human Rights, which energetically demands that these basic rights be protected.

There is much talk in Europe of a reconciliation between ecology and the economy. All this means is that attempts are being made to reach a compromise. However, it is often just an empty phrase; if it is meant seriously, it indicates an erroneous view of the world which would completely rule out responsible behaviour. For serious economic activity is unthinkable without respecting the laws of nature, even when the object is to secure the prosperity of a small part of mankind in the short term. Ultraviolet radiation which penetrates through the ozone layer makes no distinction between perpetrators and victims; both get skin cancer. Unless steps are taken to mitigate it, the Greenhouse Effect will one day have a devastating impact on the industrialized countries which caused it in the first place. Responsible economic activity must be essentially ecological, and must preserve the earth as a place to live in. Then there will be nothing more than needs reconciling.

1995 was the year of the conflict about the Brent Spar oil platform. No matter how small the danger immediately before the sinking of the platform, no matter how plausible, from a technical point of view, the arguments against dismantling it on land: Brent Spar is a particularly appropriate symbol for a form of economic life in which short-term cost savings are achieved at the expense of incalculable long-term risks which exact a high price. A floating oil platform north of Scotland has become a symbol for the deliberate contempt for the principle of preventive action. However, Brent Spar has put paid to all this. Every subsequent case will attract wide publicity.

The Member States must harmonize existing national legislation and increase the penalties for violations of environmental law, in accordance with the 'polluter pays' principle. Penal measures are one way of effectively combating and preventing forms of behaviour which damage the environment.

**MOTION FOR A RESOLUTION**

(B4-0031/96)

pursuant to Rule 45 of the Rules of Procedure

by Mr NEWMAN

on hospitalized women prisoners restrained by chains

The European Parliament,

- A. being aware of the practice of keeping certain hospitalized women prisoners in the United Kingdom chained and shackled to a prison warder 24 hours a day,
- B. believing that this practice could be deemed illegal under Article 3 of the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, a Convention endorsed repeatedly by resolutions of the European Parliament,
  - 1. Condemns this degrading and inhuman treatment;
  - 2. Is appalled that pregnant and ill women are routinely chained to prison warders when in hospital;
  - 3. Demands that the United Kingdom stop this practice forthwith.
  - 4. Instructs its President to forward this resolution to the Commission, the Council and the Government of the United Kingdom.



24 March 1997

A4-0112/97/ANNEX

**OPINION**

(Rule 147 of the Rules of Procedure)

for the Committee on Civil Liberties and Internal Affairs

on respect for human rights in the European Union in 1995  
(Report Roth)

Committee on Women's Rights

Draftsperson: Mrs Hedy d'Ancona

PE 218.951/fin./Ann.

- Consultation procedure  
simple majority
- Cooperation procedure (first reading)  
simple majority
- Cooperation procedure (second reading)  
simple majority to approve the common position;  
majority of Parliament's component Members to reject or amend the common position
- Assent procedure  
majority of Parliament's component Members to give assent;  
but simple majority under Articles 8a, 105, 106, 120d and 228 EC
- Cooperation procedure (first reading)  
simple majority
- Cooperation procedure (second reading)  
simple majority to approve the common position;  
majority of Parliament's component Members to accept a declaration of intent;  
rejection of the common position, and amend the common position or confirm its rejection
- Cooperation procedure (third reading)  
simple majority to approve the joint text;  
majority of Parliament's component Members to reject the Commission's text

## **PROCEDURE**

At its meeting of 2 July 1996 the Committee on Women's Rights appointed Mrs Hedy d'Ancona draftsman.

It considered the draft opinion at its meetings of 24 February and 19 March 1997.

At the last meeting it adopted the following conclusions by 14 votes to 4.

The following took part in the vote: van Dijk, chairman; Fouque and Bennasar Tous, vice-chairmen; d'Ancona, rapporteur; Colombo Svevo, Daskalaki, Eriksson, Ghilardotti, González Álvarez (for Ribeiro), Gröner, Hautala, Larive, Lenz (for Peijs) Lulling, Mann, McNally, Sornosa Martínez and Waddington.

## **BACKGROUND/GENERAL COMMENTS**

### **Introduction**

Is it reasonable to expect special consideration for the human rights of women? This question is at first sight understandable. Human rights, as enshrined in various international treaties, are in theory applicable to every individual. But the reality is different: women are much more often victims of human rights abuses than are men. This is partly due to gender-specific human rights violations such as violence in the home or rape as a weapon of war. But it is also significant that these violations against women are not always recognized by the authorities.

Thanks to the efforts of the international women's movement it has become clear in recent years that women's human rights must be explicitly stated. At the UN Human Rights Conference held in Vienna in 1993, the human rights of women were recognized as a particular form of human rights, and organizations such as Amnesty International and Human Rights Watch have in recent years frequently pointed out this specific relationship between women and human rights. In 1995 Amnesty published a report with the title 'Human rights are Women's rights'. The content of this report leaves no room for doubt: there is widespread violation of women's basic rights throughout the world. Most victims of war are women and children. The same is true for refugees and displaced persons; women are disproportionately likely to be driven out of house and home.

### **Beijing**

Although most of the abuses denounced in the Amnesty report occur in countries outside the European Union, there is no country in the world which is entirely free of structural violations of women's rights. For this reason the human rights of women were placed high on the agenda at the Fourth World Conference of Women held in Beijing in September 1995. In the final text signed by the governments in Beijing, a special chapter is devoted to human rights, laying down three strategic objectives.

## **Protect and promote human rights**

Firstly, the governments are to protect and promote the human rights of women by implementing all human rights instruments. There is still a big gap between human rights as laid down in international treaties and the effective transposition of these agreements into national legislation. According to the participating countries, special consideration should be given to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This convention dates from 1979 and is concerned with the equality of women in public and private life and equality with regard to civil, political, economic, social and cultural rights. At the UN Human Rights Conference in Vienna in 1993 it was noted that the CEDAW should be supplemented by an optional protocol giving individuals and groups the right to take court action against violations. This protocol would encourage governments to implement the convention meticulously. It would also set the convention on the same level as other international human rights treaties which also include a complaints procedure.

If governments intend to take the protection of women's human rights seriously, they must react more strongly to violence against women. Violence is not only an abuse of human rights, it often constitutes an obstacle to the exercise of basic rights. The Beijing text calls on governments to take action against any form of violence against women, whether in the home or in society. Trafficking in women is one example where strong measures are needed. The International Organization for Migrants estimates that in 1995 approximately 500 000 women were, mostly illegally, trafficked to European Union countries. In December 1995 the European Parliament adopted by a large majority a resolution on trafficking in human beings. And in late 1996 the Commissioner, Mrs Gradin, introduced a measure on trafficking in women. These initiatives must be followed up by specific European agreements to combat trafficking in women.

## **Equality enshrined in law**

The second objective adopted in Beijing is concerned specifically with the way equality must be enshrined in legislation and in practice. Strict observance of international agreements in this area can be promoted through the education and training of officials, lawyers and police to make them aware of the gender-specific aspects of human rights. This year the Council of Europe is to publish a comparative study of the differences in national legislation in the area of violence and other human rights abuses against women.

Equality before the law should have implications for the situation of female asylum seekers. This objective was also given expression in Beijing. It is well known that women are much less likely than men to be granted refugee status. One of the reasons is that the activities of women are often not regarded as political. Another reason is that there is practically nowhere where refugee status would be granted directly on such grounds as sexual violence or sexually-oriented violence. There are also improvements to be made in the European Union with regard to the position of migrant women. These women must be able to obtain the right of residence independently of their husbands.

## **Recognition of human rights**

In the third strategic objective the participating governments stated that women in general should be made more aware of human rights. Clear information campaigns should provide a means to this end.

Other important aspects are encouraging contacts between women's organizations and the authorities and awareness of the human rights of women in education and in the media. In this respect account should be taken of local and regional differences and diversities in language and culture. There were also calls in Beijing for further studies on the human rights situation of women. The European Women's Lobby is pressing for this. This organization is calling for a European Centre for the Human Rights of Women to be set up. On International Women's Day, 8 March 1997, the first step is to be taken with the opening of a centre which will be concerned with violence against women.

### **Enquiry**

Have the Beijing recommendations led to any real changes to date? In 1996 the European Women's Lobby carried out an initial evaluation. With regard to action in the field of human rights there was definite news to report from only three Member States. But at that time there was no complete report on action with regard to policy. Your draftsman has followed this up by conducting a brief enquiry among the equal opportunities authorities in the 15 Member States. The governments were asked about their activities in the area of human rights in relation to the promises made in Beijing. The results of this enquiry will be available for the Committee on Women's Rights' opinion on human rights in 1996.

### **CONCLUSIONS**

The Committee on Women's Rights calls on the Committee on Civil Liberties and Internal Affairs, as the committee responsible, to incorporate the following paragraphs in its report:

1. Calls on the Member States to implement as soon as possible the agreements reached on human rights at the Fourth World Conference of Women in Beijing;
2. Considers that the Convention on the Elimination of All Forms of Discrimination Against Women should be supplemented with an optional protocol giving individuals and groups the right to bring complaints to court, and that an additional protocol to the ECHR should be adopted on women's rights;
3. Considers that further study of the specific human rights situation of women is needed and calls on the Member States to take appropriate measures to combat sexually-oriented violence and other abuses of women's human rights;
4. Is disturbed at the increase in trafficking in women in the European Union and urges that European agreements be concluded soon to combat this degrading practice;
5. In this respect, advocates a European code of conduct against trafficking in women, taking as its starting point the needs of the victims and providing for the appointment of national rapporteurs on violence against women;
6. Points out that there are very many obstacles making it difficult for female asylum seekers to obtain refugee status and calls on the Member States in this connection to regard sexual violence as a form of torture;

7. Considers that Member States should grant migrant women specific rights;
8. Considers that Member States should refrain from concluding and applying bilateral agreements with countries which allow intolerable violations of the basic rights of women;
9. Sees a clear connection between economic dependence and vulnerability to sexual violence and therefore urges that all workers, including migrants working in domestic situations, be made aware that they are protected by legislation, which means that their being allowed to remain in the European Union does not entirely depend on the goodwill of their employer.