

COMMISSION OF THE EUROPEAN COMMUNITIES

COM (89) 471 final

Brussels, 2 October 1989

COMMUNITY CHARTER OF FUNDAMENTAL SOCIAL RIGHTS

- Draft -

(presented by the Commission)

D R A F T

COMMUNITY CHARTER OF FUNDAMENTAL SOCIAL RIGHTS

THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE EUROPEAN COMMUNITY MEETING AT ON

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

Whereas following on from the conclusions of the European Councils of Hanover and Rhodes the European Council of Madrid considered that, in the context of the establishment of the single European market, the same importance must be attached to the social aspects as to the economic aspects and whereas, therefore, they must be developed in a balanced manner;

Having regard to the Resolutions of the European Parliament of 15 March 1989 and 14 September 1989 the opinion of the Economic and Social Committee of 22 February 1989;

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

Whereas the social consensus contributes to the strengthening of the competitiveness of undertakings, of the economy as a whole and of the creation of employment; thus it is an essential condition for ensuring sustained economic development;

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

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

Whereas, in a spirit of solidarity, it is important to combat every form of social exclusion and discrimination, including discriminations on grounds of race, colour, and religion;

Whereas workers from non-Member countries who are legally resident in a Member State of the Community should be able to enjoy treatment comparable to that enjoyed by workers who are nationals of the Member State concerned;

Whereas inspiration should be drawn from the Conventions of the International Labour Organization and from the European Social Charter of the Council of Europe;

Whereas the Treaty, as amended by the Single European Act, contains provisions laying down the powers of the Community, relating, inter alia, to the freedom of movement of workers (Art. 7, 48-51), the right of establishment (Art. 52-58), social field, (Art 117-122) in particular as regards the improvement of the working environment (Art. 118a), the development of the dialogue between management and labour at European level (Art. 118b), equal pay for men and women for equal work (Art. 119), a common vocational training policy (Art. 128), economic and social cohesion (Art. 130a to 130e) and, more generally the approximation of legislation (Art. 100, 100a and 235);

Whereas the aim of the present Charter is to consolidate the progress made in the social field, in particular through Community action;

Whereas its aim is also to declare solemnly that the implementation of the Single European Act must take full account of the social dimension of the Community and that, in this context, the development of the social rights of citizens of the European Community, especially workers and self-employed persons, must be assured at appropriate levels;

Whereas responsibility for the initiatives to be taken with regard to the implementation of these social rights, which must be applied according to the principle of "subsidiarity", lies, according to the circumstances, with the Member States or their constituent parts or with the European Community; whereas this implementation may take the form of laws, collective agreements or existing practices and requires, where appropriate, the active involvement of the two sides of industry at the various levels concerned;

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

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

TITLE I - FUNDAMENTAL SOCIAL RIGHTS

RIGHT TO FREEDOM OF MOVEMENT

1. Every citizen of the European Community shall have the right to freedom of movement throughout the territory of the Community subject to restrictions justified on grounds of public order, public safety or public health.
2. The right to freedom of movement shall enable any citizen to engage in any occupation or profession in the Community on the same terms as those applied to nationals of the host country, subject to the provisions of Community law.
3. The right to freedom of movement shall imply entitlement to equal treatment with nationals of the host country in all fields, including social advantages and taxation.

4. This right of freedom of movement shall imply that :
 - Harmonization of conditions of residence in all Member States, particularly those concerning family reunification, must be continued.
 - Obstacles arising from the non-recognition of certain categories of diplomas or occupational qualifications must be eliminated.
 - Special attention must be devoted to improving the living and working conditions of European Community citizens residing in frontier regions and, in particular, of frontier workers.
5. The working conditions as well as social protection shall be guaranteed to all Community workers engaged in non-temporary gainful employment in a Member State other than their country of origin in particular when awarding public works contracts on terms identical to those enjoyed by workers of the host country.

6. Recourse to sub-contracting in the context of the freedom to provide services, when it leads a worker of one Member State to perform non-temporary work in another Member State cannot be an obstacle to the principle of equal treatment with workers of the host country, especially in so far as the wage conditions and the other social benefits related to this wage are concerned.

EMPLOYMENT AND REMUNERATION

7. Every individual shall be free to choose and engage in an occupation according to the regulations governing each occupation.
8. All employment shall be fairly remunerated.

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

- a decent wage shall be established, particularly at the level of the basic wage;

- rules shall be laid down on the basis of which workers subject to terms of employment other than an open-ended full time contract can be assured of an equitable reference wage;
 - wages may be withheld, seized or transferred only in accordance with national law; such provisions should entail measures enabling the worker concerned to continue to enjoy the necessary means of subsistence for himself and his family.
9. Every individual must be able to have access to public placement services free of charge.

IMPROVEMENT OF LIVING AND WORKING CONDITIONS

10. The development of a European labour market must lead to an improvement in the living and working conditions of workers in the European Community, this process resulting from an approximation of these conditions while the improvement is being maintained. This process will concern :
- the organization and flexibility of working time, particularly by establishing a maximum duration of working time,

- all forms of employment other than open-ended contracts and in particular to fixed-term contracts, seasonal work, part-time working and temporary work.
- other forms of working such as weekend working, night work and shift work as well as to systematic overtime.

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

11. Every worker residing in the European Community shall have a right to annual paid leave and to a weekly rest period, or to a rest period at a regular rhythm to be agreed jointly by the two sides of industry.
12. Every worker residing in the European Community shall have a right to have his conditions of employment stipulated in a contract of employment save where such conditions are governed by law or collective agreement.

RIGHT TO SOCIAL PROTECTION

13. According to the arrangements applying in each country :

- every citizen of the European Community shall have a right to adequate social protection;
- all workers, whatever their status and whatever the size of the undertaking in which they are employed, must enjoy adequate levels of social security benefits proportional, where appropriate, to length of service and pay and to their financial contribution to the appropriate social protection system;
- persons who have been unable either to enter or re-enter the labour market and who are no longer eligible for unemployment benefit, must be able to receive a minimum income and appropriate social assistance;
- persons, especially the elderly, who do not have adequate means of subsistence must be able to receive a minimum income modulated or complemented by appropriate social assistance.

RIGHT TO FREEDOM OF ASSOCIATION AND COLLECTIVE
BARGAINING

14. Every employer and every worker in the European Community shall have the right to join freely any professional organization, trade union, or any association of his choice legally constituted.

Everyone shall have the freedom to exercise this right or to renounce it without any personal or occupational damage being thereby suffered by the individual concerned.

15. This right shall entail recognition of the right to belong to a union, the freedom to negotiate and conclude collective agreements, which should be promoted.

This right shall imply that relations based on agreement may be established between the two sides of industry at European level if they consider it desirable. The texts of the agreements thus concluded may cover employment and working conditions as well as related social entitlements.

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

16. The right to resort to collective action in the event of a conflict of interests, includes the right to strike, save in exceptions specified in existing legislation.

In order to facilitate the settlement of industrial disputes it is desirable to make possible the establishment and utilization of procedures of conciliation, mediation and arbitration.

RIGHT TO VOCATIONAL TRAINING

17. Every European Community worker must have the opportunity to continue his vocational training

throughout his working life. The public authorities, enterprises or, where appropriate, the two sides of industry, each within their own sphere of competence, must set up continuing and permanent training systems enabling every citizen to undergo retraining, more especially through leave for training purposes, improve his skills or acquire new skills, particularly in the light of technical developments.

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

RIGHT OF MEN AND WOMEN TO EQUAL TREATMENT

19. Equal treatment for men and women must be assured. Equal opportunities for men and women must be developed.

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

Such action shall imply the development of amenities enabling those concerned to reconcile their occupational and family obligations more easily.

RIGHT OF WORKERS TO INFORMATION, CONSULTATION AND PARTICIPATION

20. Information, consultation and participation for workers must be developed along appropriate lines and in such a way as to take account of the laws, collective agreements and practices in force in the Member States.

This shall apply especially in companies or groups of companies having establishments or companies in several Member States of the European Community.

21. In particular, these provisions must be implemented in due time in the following cases:

- when technological changes which, from the point of view of working conditions and work organization, have major implications for the workforce are introduced into firms;

- in connection with restructuring operations in firms or in cases of mergers having an impact on the employment of workers;
- in case of procedures of collective redundancies or those regarding bankruptcies;
- when transfrontier workers are affected by employment policies pursued by the firm where they are employed.

RIGHT TO HEALTH PROTECTION AND SAFETY AT THE
WORKPLACE

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

Such protection may not be jeopardized by provisions concerning the implementation of the single market, especially as regards the awarding of public works contracts.

PROTECTION OF CHILDREN AND ADOLESCENTS

23. Without prejudice to such rules as may be more favourable to young people, in particular those ensuring their preparation for work through vocational training, the minimum employment age must be fixed at 16 years.
24. Young people aged over 16 who are in gainful employment must receive equitable remuneration.
25. Appropriate measures must be taken to adjust labour regulations applicable to young workers so that their specific development and vocational training needs are met.

Furthermore, for a period of at least two years, following the end of compulsory education, young people must be entitled to receive two years of initial vocational training in order to adapt to the requirements of their future working life; for young workers, such training must take place during working hours.

26. Except where so permitted by legal provisions or the provisions of collective agreements, young workers aged under 18 may not work more than 40 hours per week and shall not perform night work.

ELDERLY PERSONS

27. Every person in retirement or early retirement must be able to enjoy resources affording him or her a decent standard of living.
28. Any person who has reached retirement age but who is not entitled to a pension, for whatever reason, or who does not have other adequate means of subsistence, should be entitled to a minimum income, modulated or complemented by social protection, and medical and social assistance specifically suited to their needs and as wide an access as possible to such assistance.

DISABLED PERSONS

29. All disabled persons, whatever be the origin and nature of their disablement must be entitled to additional concrete measures aiming at improving their social and professional integration.

These measures must concern, in particular, according to the capacities of the

beneficiaries, vocational training, ergonomics, accessibility, mobility, means of transport and housing.

TITLE II - IMPLEMENTATION OF THE CHARTER

30. The Member States commit themselves to take such steps as are appropriate and to mobilize all the resources that may be necessary in order to guarantee the fundamental social rights contained in this Charter and full implementation of the social measures indispensable to the efficient operation of the internal market. This shall be done either through legislative measures or by encouraging both sides of industry to conclude collective agreements at national, regional, sectoral or company level.

31. The European Council hereby invites the Commission of the European Communities to pursue, within the framework of the Treaty, its present activities in the social domain and instructs it to present, by 31 December 1989 at the latest, an action programme with a set of related instruments.

32. The Commission is also instructed to present at regular intervals a report on the implementation of the principles of the Charter in parallel with the implementation of the Treaty of Rome as amended by the Single Act.

33. The Commission's report shall be forwarded to the Council of Ministers, the European Parliament and the Economic and Social Committee.

ISSN 0254-1475

COM(89) 471 final

DOCUMENTS

EN

05

Catalogue number : CB-CO-89-436-EN-C

ISBN 92-77-53282-3

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