

EUROPEAN PARLIAMENT

2004



2009

Session document

A6-9999/2008

5.12.2008

REPORT

on the situation of fundamental rights in the European Union 2004-2008

(2007/2145(INI))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Giusto Catania

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	3
OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION.....	29
RESULT OF FINAL VOTE IN COMMITTEE	32

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the situation of fundamental rights in the European Union 2004-2008 (2007/2145(INI))

The European Parliament,

- having regard to the Charter of Fundamental Rights of the European Union (the Charter) of 7 December 2000, as adopted on 12 December 2007,
- having regard to the objectives of making the Union an area of freedom, security and justice and of implementing the principles of liberty, democracy and respect for fundamental rights and the rule of law, as set out in Articles 6 and 7 of the Treaty on European Union (EU),
- having regard to the innovations to which the governments of the Member States gave their agreement on 13 December 2007 by signing the Lisbon Treaty, the most significant of which are the conferral of binding legal status on the Charter and the requirement to accede to the European Convention on the Protection of Human Rights and Fundamental Freedoms (the ECHR),
- having regard to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin¹, Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation², and to the Council of Europe's Framework Convention for the Protection of National Minorities,
- having regard to Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights³ (hereinafter the Agency),
- having regard to the reports of the Agency, the European Monitoring Centre on Racism and Xenophobia and the non-governmental organisations (NGOs) concerned,
- having regard to the decisions of the Court of Justice of the European Communities (ECJ) and of the European Court of Human Rights,
- having regard to the annual reports on fundamental rights in the European Union drawn up by the European Union's network of independent experts,
- having regard to the reports by the bodies of the Council of Europe, in particular the reports on the human rights situation drawn up by the Parliamentary Assembly and the Commissioner for Human Rights,
- having regard to its reports on visits to detention centres for immigrants in an irregular situation,

¹ OJ L 180, 19.7.2000, p. 22.

² OJ L 303 2.12.2000, p. 16.

³ OJ L 53, 22.2.2007, p. 1.

- having regard to its resolutions on fundamental rights and human rights,
 - having regard to the series of public meetings and exchanges of views organised in preparation for the drafting of this resolution by its Committee on Civil Liberties, Justice and Home Affairs, in particular those held on 8 October 2007 with constitutional and supreme court judges, on 19 May 2008 with the Council of Europe’s Commissioner for Human Rights and on 6 October 2008 with representatives of non-governmental organisations,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Culture (A6-0000/2008),
- A. whereas Article 6 of the EU Treaty states that the European Union is based on a community of values and on respect for fundamental rights, as guaranteed by the ECHR and as they result from the constitutional traditions common to the Member States,
- B. whereas Parliament, as the directly elected representative of the citizens of the Union and guarantor of their rights, believes that it has a clear responsibility to uphold these principles, in particular as the Treaties in their current form greatly restrict the individual’s right to bring actions before the Community courts and the European Ombudsman,
- C. whereas the introduction of a procedure for monitoring the compatibility of legislative proposals with the Charter is an inevitable consequence of its adoption on 7 December 2000, as the Commission acknowledged when adopting corresponding provisions in 2001 and as Parliament pointed out when adopting its resolution of 15 March 2007 on compliance with the Charter in the Commission’s legislative proposals: methodology for systematic and rigorous monitoring,
- D. whereas the Lisbon Treaty, which is currently undergoing ratification, makes explicit reference to the Charter and confers on it the same legal value as the Treaties,
- E. whereas, should the Charter be incorporated into Union primary law, the rights defined therein will acquire binding force by means of the secondary law implementing them,
- F. whereas, irrespective of its legal status, the Charter has over the years become a source of inspiration in the case-law of the European courts, such as the Court of First Instance (CFI) and the ECJ, the European Court of Human Rights and many constitutional courts,
- G. whereas the establishment of a genuine ‘culture of fundamental rights’ in the Union calls for the development of a comprehensive system for monitoring the application of those rights, encompassing the Council and decisions taken as part of intergovernmental cooperation, in that the protection of fundamental rights does not consist solely of formal compliance with rules, but above all of their active promotion and of intervention in cases where Member States violate fundamental rights or enforce them unsatisfactorily,

Introduction

1. Considers that the effective protection and the promotion of fundamental rights form the basis of democracy in Europe and are prerequisites for the consolidation of the European area of freedom, security and justice;
2. Points out that the protection of fundamental rights involves measures at different levels (international, European, national, regional and local) and emphasises the role which local and regional authorities can play in the practical implementation and promotion of such rights;
3. Deplores the fact that the Member States continue to refuse EU scrutiny of their own human rights policies and practices and endeavour to keep protection of those rights on a purely national basis, thereby undermining the active role played by the European Union in the world as a defender of human rights and damaging the credibility of the EU's external policy in the area of the protection of fundamental rights;
4. Points out that, pursuant to Article 6(2) of the EU Treaty, the role of the ECJ is to enforce fundamental rights as they result from the constitutional traditions common to the Member States, the ECHR and other instruments of international law;
5. Stresses that Article 7 of the EU Treaty provides for an EU procedure to make sure that systematic and serious violations of human rights and of fundamental freedoms do not take place in the EU, but that such a procedure has never been used notwithstanding the fact that violations do take place in the Member States, as proven by the judgments of the European Court of Human Rights; asks the EU institutions to establish a monitoring mechanism and a set of objective criteria for the implementation of Article 7 of the EU Treaty;
6. Emphasises that if the constitutional traditions common to the Member States can be drawn on by the ECJ as a source of inspiration in the framing of its judicial doctrine on fundamental rights, that the Charter constitutes a common basis of minimum rights, and that the Member States cannot use the argument that the Charter would provide a lower level of protection of certain rights than the safeguards offered under their own constitutions as a pretext for watering down those safeguards;
7. Welcomes Article 53 of the Charter, which will enable the ECJ to develop its case-law on fundamental rights, thereby giving them a basis in law which is vitally important in the context of the development of EU law;
8. Stresses that the judiciary in the Member States have a vital role to play in the enforcement of human rights; urges States to introduce a system of continuous training for national judges on systems for the protection of fundamental rights;

General recommendations

9. Takes the view that the practical application of fundamental rights must be an objective of all European policies; takes the view that, to that end, the European Union

institutions should actively promote and safeguard fundamental rights and take full account of them when drafting and adopting legislation;

10. Welcomes the setting-up of the Agency, which represents a first step towards meeting Parliament's calls for the establishment of an integrated regulatory and institutional framework designed to put the Charter into effect and guarantee consistency with the system established by the ECHR; points out, however, that the annual reports on human rights drawn up by the European Network of Independent Experts in Fundamental Rights, published until 2005, scrutinised the application of all the rights recognised by the Charter in each Member State, and is concerned, therefore, at the fact that the Agency's limited remit and the dissolution of the Network may exclude from systematic scrutiny a series of important areas of human rights policy in Europe;
11. Emphasises, as regards the Agency's limited remit, that human rights issues cannot be artificially divided into areas under the first, second or third pillars, as the Member States choose to define the scope of the European Union's powers, because fundamental rights are indivisible and interdependent; regards it as essential, therefore, that the Commission and the Council, working with the Agency, should first of all seek to gain an overview of concerns in the area of human rights in the Member States beyond the strict framework of European rules, without confining themselves to topical issues in the European Union or specific legal and political instruments, identifying recurring and current human rights problems in the Member States and considering all existing mechanisms at international and European level;
12. Calls on the Commission and the Council to use the information available as a result of the monitoring carried out within the European Union by the Agency, the Council of Europe, United Nations monitoring bodies, national human rights institutions and NGOs and to translate that information into corrective measures or a preventive legal framework;
13. Reserves the right to follow up the Agency's work in the European Union and to address human rights issues which fall outside the Agency's remit, and calls on the Commission to do the same, in keeping with its role as guardian of the Treaties;
14. Draws attention to the fact that an active rights policy cannot be confined to those cases that receive the greatest public exposure and that serious rights violations are not subject to critical public scrutiny in closed institutions for juveniles, the elderly and the sick or in prisons; stresses that the Member States and the European Union should ensure expert monitoring of living conditions in such closed institutions, in terms of both regulations and practices;
15. Calls on the Council to incorporate in its future annual reports on human rights in the world an analysis of the situation in the world and in each Member State; takes the view that a twin-track analysis of this kind would highlight the Union's equal commitment to protecting human rights both inside and outside its borders, so as to ward off any accusations of double standards;
16. Calls on the Member States to take measures to endow the national human rights institutions set up under the United Nations' 'Paris Principles' with independent status

vis-à-vis the executive and sufficient financial resources, taking account, in particular, of the fact that one of these bodies' tasks is to review human rights policies with the aim of identifying failings and suggesting improvements, on the understanding that effectiveness is measured primarily by the way in which problems are prevented rather than simply resolved; urges those Member States which have not yet done so to set up the above-mentioned national human rights institutions;

17. Urges the Council to transform its *ad hoc* working party on fundamental rights and citizenship into a standing working party, which would work in tandem with the Working Party on Human Rights (COHOM), and calls on the Commission to allocate the human rights and fundamental freedoms portfolio to a single Commissioner;
18. Points out that it regards it as essential in political terms to incorporate the idea of promoting fundamental rights among the aims to be pursued when simplifying or restructuring the *acquis communautaire*; calls for every new policy, legislative proposal and programme to be accompanied by an impact assessment concerning respect for fundamental rights and for that assessment to form an integral part of the justification for the proposal, and hopes that the Member States will also adopt similar impact assessment instruments in the subsequent transposition of Community law into domestic law;
19. Calls on the Council Presidencies to organise the Forum of Human Rights NGOs so that civil society and the European institutions can hold in-depth discussions of human rights issues in the Member States; emphasises that this Forum should be open to anyone who wishes to participate;

Cooperation with the Council of Europe and the other international institutions and organisations responsible for the protection of fundamental rights

20. Welcomes the prospect of the Union acceding to the ECHR, even if that accession does not bring about fundamental changes, given that 'when questions relating to the rights and freedoms enshrined in the ECHR are raised before the Court of Justice of the European Communities, the latter treats the ECHR as forming a genuine part of the EU's legal system'⁴;
21. Draws attention to the major role played by the Council of Europe's institutions and monitoring mechanisms and its various conventions in the area of human rights; urges the Member States, the EU institutions and the Agency to draw on that experience, to take account of those mechanisms by incorporating them into networking procedures and to use the standards developed by the Council of Europe and the other tangible results of its work; calls for the potential offered by the Memorandum of Understanding between the Council of Europe and the European Union to be exploited to the full;
22. Calls for closer cooperation between the various institutions and organisations responsible for protecting fundamental rights, both at European and international levels;

⁴ Council of Europe - European Union: 'A sole ambition for the European continent', report by Jean-Claude Juncker, 11 April 2006, p. 4.

23. Emphasises once again how important it is for the European Union's credibility in the world that it should not practise double standards in external and internal policy;
24. Takes the view that, although the European Union is never a party as such, if most of its Member States have acceded to conventions or other international legal instruments in the area of the protection of fundamental rights, this imposes on the Union an obligation to abide by their provisions and, where appropriate, the recommendations which the bodies which they set up issue, provided that Union law does not offer an equivalent or higher level of protection; calls on the ECJ to endorse that approach through its rulings;
25. Urges the European Union to conclude cooperation agreements with the international institutions and organisations responsible for the protection of fundamental rights, and in particular with the Office of the United Nations High Commissioner for Human Rights and the other UN bodies which play a role in that area and with the Office for Democratic Institutions and Human Rights and the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe;

Human rights, freedom, security and justice

26. Emphasises the need to assess and fully respect fundamental rights and individual freedoms as the Union's powers develop; takes the view, on that basis, that the two objectives of respecting fundamental rights and safeguarding collective security are not only compatible but interdependent, and that appropriate policies can ensure that individual freedoms are not threatened by a repressive approach;
27. Believes that the development of a European judicial area based on the application of the principle of mutual recognition must be based on equivalent procedural safeguards across the EU and respect for fundamental rights as emphasised by Article 6 of the EU Treaty; calls for the swift adoption of an adequate legislative measure on rights of individuals in criminal procedures; calls on Member States to make sure that the European Arrest Warrant and other mutual recognition measures are applied in conformity with EU human rights standards such that non-compliance with such standards may be a ground for non-execution;
28. Emphasises the right of any arrested person to be provided with full legal safeguards and, where appropriate, assistance from the diplomatic representation of the country of which he or she is a national and the services of an independent interpreter;
29. Expresses concern at the high number of violations of the ECHR involving Member States and urges them to execute related judgments and to address structural shortcomings and systematic violations of human rights by introducing the necessary reforms;
30. Expresses concern at the fact that international cooperation in the fight against terrorism has often served to diminish the level of protection of human rights and fundamental freedoms, notably the fundamental right to privacy, data protection and non-discrimination and takes the view that the EU should act with greater resolve at international level to promote a genuine strategy based on full compliance with international standards and obligations in the area of human rights and the protection of

personal data and privacy in accordance with Articles 7 and 8 of the Charter; consequently urges the Council to adopt the draft Framework Decision on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, in line with Parliament's recommendations for higher standards; takes the view that a strategy such as this must take account of the need for effective judicial control of the intelligence services so as to avoid the use of information obtained by torture, ill-treatment or other methods not meeting international human rights standards as evidence in judicial procedures, including at the investigative stage;

31. Strongly urges the EU institutions and the Member States to implement the recommendations contained in its resolution of 14 February 2007 on the alleged use of European countries by the CIA (Central Intelligence Agency) for the transportation and illegal detention of prisoners¹; welcomes in this context the statement by the US President-Elect on closing the Guantanamo Bay detention facility and bringing the inmates to trial; calls on Member States to declare their readiness to jointly find solutions for remaining inmates;
32. Deplores the defiance and non-implementation by the EU of the verdict of the CFI on 12 December 2006 and the UK Court of Appeal decision in favour of the People's Mojahedin Organization of Iran (PMOI) on 7 May 2008.

Discrimination

General observations

33. Stresses the difference between protection of minorities and anti-discrimination policies; considers that equality of opportunity is a fundamental right for all individuals, and not a privilege, and not only for the citizens of a particular Member State; therefore takes the view that all forms of discrimination must be combated equally resolutely;
34. Calls on the Member States and the Commission to act in full on the recommendations of the Agency as set out in Chapter 7 of its first annual report⁵;
35. Observes with concern the unsatisfactory situation concerning implementation of anti-discrimination policies and, in this connection, supports the assessment in the Agency's 2008 annual report; presses those Member States which have not yet done so to give tangible expression to implementation of those policies, in particular Directive 2000/43/EC and Directive 2000/78/EC, and points out that those directives establish a minimum standard and should therefore be the basis on which an exhaustive anti-discrimination policy is built;
36. Calls on those Member States which have not yet done so to ratify Protocol No 12⁶ to the ECHR, given that it provides for a general ban on all forms of discrimination, guaranteeing that nobody will be discriminated against for any reason whatsoever by

¹ OJ C 287 E, 29.11.2007, p. 309.

⁵ 2008 Annual Report of the European Agency for fundamental rights, published on 24 June 2008.

⁶ Protocol No 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, signed on 4 November 2000.

any public authority; notes that such a provision is currently absent from the legal acts in force of both the European Union and the Council of Europe;

37. Welcomes the Commission proposal for a directive implementing the principle of equality outside of employment, thereby extending the scope of Directive 2000/43/EC to all other forms of discrimination, thus implementing Article 21 of the Charter, which provides greater leeway than Article 13 of the EC Treaty in that it makes reference to further forms of discrimination: colour, social origin, genetic features, language, political or other opinions, membership of a minority, property and birth;
38. Regrets that the proposed directive leaves substantial gaps in legal protection against discrimination, notably through a wide range of exceptions relating to public order, public security and public health, economic activities, marital and family status and reproductive rights, education and religion; is concerned that, rather than banning discrimination, these 'escape clauses' may actually serve to codify existing discriminatory practices; reminds the Commission that the directive must be in line with existing case-law in the area of lesbian, gay, bisexual and transgender (LGBT) people rights, notably the Maruko ruling⁷;
39. Calls on the Commission to involve the Agency in the Community's legislative process on anti-discrimination so as to allow it to play a significant role as a regular source of up-to-date and detailed information of relevance for drafting further legislation, consulting it at the preparatory stage in the process of drawing up draft legislation;
40. Calls on the Council to adopt as soon as possible the Commission proposal for a Council framework decision on combating certain forms and expressions of racism and xenophobia by means of criminal law⁸ further to the political agreement of December 2007; points to its opinion of 29 November 2007⁹, which endorsed the proposal; calls on the Commission, after consulting the Agency, to propose similar legislation to combat homophobia;
41. Is concerned at the poor level of knowledge of anti-discrimination legislation in the Member States and notes that, in order to exercise their rights, citizens of the Union have to have recourse to EU legislation in this area; calls on the Commission and Member States to redouble their efforts to raise that level; stresses the fact, at the same time, that legislation is effective only if citizens have easy access to the courts, since the protection regime laid down by the anti-discrimination directives hinges on initiatives taken by victims;
42. Considers that, over and above legislative tools and the scope for appeals, the fight against discrimination must be based on education, promoting best practice and information campaigns targeting the general public and the areas and sectors where discrimination takes place; calls on national and local authorities to use the educational

⁷In Case C 267/06 Tadao Maruko v. Versorgungsanstalt der deutschen Bühnen of 1 April 2008 the European Court of Justice rules that the refusal to grant the survivor's pension to life partners constitutes direct discrimination on grounds of sexual orientation, if surviving spouses and surviving life partners are in a comparable situation as regards that pension.

⁸ 11522/2007 - C6-0246/2007 - 2001/0270(CNS).

⁹ A6-0444/2007.

tools produced by the Agency and the Council of Europe when carrying out educational and anti-discrimination policy promoting measures;

43. Stresses that the notion of affirmative action, which is an acknowledgement of the fact that in some cases effective action to combat discrimination requires active intervention by the authorities to restore balance where it has been seriously compromised, cannot be reduced to the notion of quotas; stresses that such action can in practice be highly diverse, e.g. guaranteeing recruitment interviews, priority access to training leading to a job in areas where particular communities are under-represented, priority information on job offers for particular communities, and taking account of professional experience rather than qualifications alone;
44. Takes the view that the gathering of data on the situation of minorities and disadvantaged groups is important, as underlined by successive reports by the European Observatory of Racism and Xenophobia and the Agency; calls on the Member States to publish detailed statistics on racist crimes and to set up inquiries into crimes and/or victims which enable quantitative, comparable data on the victims of such crimes to be collected;

Minorities

45. Observes that the recent EU enlargements have added close to one hundred minority population groups to the fifty or so which existed when there were 15 EU countries, and stresses that because of the low percentage of resident immigrants, refugees and foreign nationals from third countries and the more visible presence of indigenous 'traditional' minorities in Central and Eastern European Member States, migration and integration policies have been hived off there from policies on minorities;
46. Stresses that, while the protection of minorities is a part of the Copenhagen Criteria, there are neither common criteria nor minimum standards for national minorities' rights in Community policy and that there is no common EU definition either of membership of a national minority; recommends that such a definition be laid down at European level on the basis of Council of Europe Recommendation 1201 (1993); calls on all Member States that have not yet done so to sign and ratify the European Charter for Regional or Minority Languages and the Framework Convention for the Protection of National Minorities;
47. Stresses in this context that more and more EU citizens move from one Member State to another and that they should fully enjoy the rights provided by the Treaties in relation to their status as Union citizens, notably those to participation in local and European elections and to free movement; calls on Member States to fully comply with Directive 2004/38/EC on free movement and to EU institutions to take further action to ensure protection of Union citizens' rights all over the EU;
48. Underlines the importance of protecting and promoting regional or minority languages, noting that the right to speak and to be educated in one's mother tongue is one of the most basic fundamental rights; and welcomes Member State activities on endorsement of intercultural and interreligious dialogue, which is vital for full enjoyment of the rights of cultural and religious minorities;

49. Considers that the principles of subsidiarity and self-governance are the most effective ways of handling the problems of traditional national minority communities, following the best practices existing within the Union; encourages the use of appropriate types of self-governance solutions (personal-cultural, territorial, regional autonomies) based on the agreement of the majority and the minority community while fully respecting the sovereignty and territorial integrity of the Member States;
50. Stresses that the EU's multilingualism policy should protect and promote regional and minority languages by targeted funding and specific programmes alongside the Lifelong Learning Programme;
51. Considers that stateless persons permanently resident in Member States are in a unique position in the European Union, given that some Member States impose unwarranted demands on them or demands which are not strictly necessary, thus discriminating against them by comparison with citizens belonging to the majority community; calls therefore on all the Member States concerned to ratify the United Nations Convention Relating to the Status of Stateless Persons (1954, 1961) and on the reduction of statelessness; calls on those Member States which gained or regained sovereignty in the 1990s to treat all persons previously resident in their territory without any discrimination, and calls on them to systematically bring about just solutions, based on the recommendations of international organisations, to the problems encountered by all victims of discriminatory practices; condemns, in particular, practices of deliberate erasure of registered permanent residents within the European Union and calls on the governments concerned to take effective measures to restore the status of those stateless persons;

The Roma

52. Considers that the Romani community needs special protection since, following enlargement of the Union, it has become one of the largest minorities in the EU; stresses that that community has been marginalised, historically, and prevented from developing in particular key areas because of discrimination, stigma and exclusion problems which have become more and more acute;
53. Takes the view that the social marginalisation of, and discrimination against, Romani communities is an established fact in spite of the legal, political and financial instruments introduced at European level to combat this; notes that the Union's and Member States' piecemeal and uncoordinated efforts have not succeeded, to date, in making structural and lasting improvements to the situation of the Roma, in particular in crucial areas such as access to education, health, housing and employment, a failure which is now publicly acknowledged;
54. Deplores the lack of a global and integrated EU policy specifically targeting discrimination against the Roma in order to deal with the priority problems which they are encountering, as recorded by a number of mechanisms for verifying human rights compliance, including the Commission's pre-accession assessment, the judgments of the European Court of Human Rights and the Agency's reports; asserts that it is the collective responsibility of the Union to provide a response to these problems, which

constitute one of the most far-reaching and complex human rights issues and that it must resolutely tackle it;

55. Stresses the need for a global, human rights and action-oriented approach to non-discrimination reflecting the European dimension of discrimination against the Roma; takes the view that a European Union framework strategy for Roma inclusion should seek to tackle the real problems, by providing a road map for Member States setting objectives and priorities and facilitating the monitoring and evaluation processes with regard to:
- segregation of the Roma as regards access to housing, human rights violations such as forced evictions and their exclusion from employment and public education and health care, by enforcing anti-discrimination laws and developing policies to address high levels of unemployment;
 - frequent denial of their rights by public authorities and their political under-representation;
 - widespread anti-Romani sentiments, the very inadequate guarantees against racial discrimination at local level and too few appropriate integration programmes; blatant discrimination in health care, including forced sterilisation, and segregation, a lack of appropriate information on family planning;
 - discrimination by the police; the police's racial profiling (– inter alia by taking fingerprints or other forms of data collection), and their wide discretionary powers including disproportionate random checks, which highlights the urgent need for training and awareness-raising programmes on non-discrimination by the police, at present largely non-existent;
 - the particularly vulnerable situation of Romani women, who are subject to multiple discrimination;

Equal opportunities

56. Calls on the Member States to increase respect for and protection and implementation of the rights set out in the United Nations Convention on the Elimination of All Forms of Discrimination against Women and asks the Member States concerned to withdraw their reservations and ratify the Optional Protocol to that Convention¹⁰; whilst underlining the need for firmly pursuing their commitments made in the United Nations Declaration and the Platform for Action of the Fourth World Conference on Women in Beijing 1995;
57. Calls on Member States and the EU to combat through efficient measures direct and indirect discrimination against women in all spheres (including marriage, partnership and other family relations) and multiple discrimination (taking place on the ground of sex and at the same time on another ground);

¹⁰ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, adopted on 15 October 1999.

58. Calls for special attention to be given to the situation of women belonging to ethnic minorities and to immigrant women, since their marginalisation is made worse by multiple discrimination both within and outside their own communities; recommends the adoption of national integrated action plans so as to deal effectively with multiple discrimination, especially where different organisations address discrimination issues within a particular State;
59. Stresses that the violence endured by women because of their sex, particularly domestic violence, must be recognised and combated at European and national level, given that it is a common and often underestimated violation of women's rights, and calls on the Member States in consequence to take appropriate, effective measures to ensure that women are guaranteed a life free from all violence, taking due account of the Declaration on the Elimination of Violence against Women¹¹;
60. Calls on Member States and the EU to acknowledge and address sexual exploitation in all its forms; Member States that have not complied with agreed EU legislation to combat trafficking in human beings should be held to account;¹² Member States should ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Council of Europe Convention on Action against Trafficking in Human Beings; urges the Commission to implement the Action Plan on trafficking Human Beings;
61. Stresses the need to raise public awareness of the right to reproductive and sexual health, and calls on the Member States to ensure that women can fully enjoy these rights, to put in place appropriate sex education, information and confidential advisory services, and to facilitate access to contraception in order to prevent all unwanted pregnancies and illegal and high-risk abortions, and to combat the practice of female genital mutilation;
62. Stresses that ethnic minority women should be ensured access to public funds, irrespective of their legal status, to enable them to access safe, equal, culturally sensitive health services and rights, in particular sexual and reproductive health and rights; a European legal framework to ensure the physical integrity of young girls from Female Genital Mutilation should be adopted;
63. Stresses that, although progress has been made with regard to the employment of women and despite their high level of education, they continue to be clustered in certain professions, to be paid less than men for the same work and under-represented in decision-taking positions, and continue to be regarded with suspicion by employers owing to pregnancy and maternity; the gender pay gap must be seriously addressed to guarantee women's economic independence and equality between women and men on

¹¹ United Nations Declaration on the Elimination of Violence against Women, adopted 20 December 1993.

¹² Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, 2002/629/JHA: Council Framework Decision of 19 July 2002 on combating trafficking in human beings.

the labour market;

64. Calls on the Member States and social partners to take the necessary measures to combat sexual and psychological harassment in the workplace;
65. Stresses the need for women to be supported in their careers, including through proactive policies to balance private, working and family life; urges the Commission and Member States to promote both shared parental leave and paternity leave, and to mutualise the cost of maternity and parental leave so that women no longer represent a workforce which is more costly than men; and underlines the need for awareness raising campaigns to avoid gender stereotyped family patterns, while highlighting the importance of ensuring flexible working conditions, increasing access to childcare and guaranteeing full participation in pension schemes for women with children;
66. Calls on the Member States to combat, jointly with the social partners, discrimination against pregnant women on the labour market and take all necessary measures to ensure a high level of protection for mothers; calls on the Commission to make a more detailed assessment of compliance of national provisions in this area with Community law and, where necessary, to make any appropriate proposal to revise Community legislation;
67. Draws attention to the many partners (mainly women) of self-employed persons (chiefly in agriculture) whose legal status is uncertain in many Member States, which may give rise to specific financial and legal problems concerning access to maternity leave and sick leave, accumulation of pension entitlements and access to social security, as well as in the event of divorce;
68. Acknowledges that women's unequal access to economic resources on the labour-market undermines their access to social protection, particularly pension rights, with the result that 'at-risk-of-poverty rate' for women in old age is greater than that of men; in order to prevent discrimination against women, it is crucial that the individualisation of rights is guaranteed in social protection systems rather than based on the family unit; the time spent out of the formal labour market for reasons of care should be accorded "credit-time" units which would count in the calculation of full pension rights;
69. Stresses the importance of ensuring that third-country nationals entering European Union territory and Union citizens are aware of the existing laws and social agreements on equality between men and women, so as to rule out discriminatory situations resulting from a lack of awareness of the legal and social context;
70. Calls on the Member States to disallow the invoking of custom, tradition or any other religious consideration to justify any form of discrimination, oppression or violence against women or the adoption of policies which might put their lives in danger;
71. Calls on the Commission to conduct a study into discrimination against single person households, notably with regard to fiscal treatment, social security, public services, health services and housing;

Sexual orientation

72. Takes the view that discriminatory comments against homosexuals by social and political leaders fuel hatred and violence, and calls on the relevant governing bodies to condemn them;
73. Welcomes the publication of the first thematic report by the Agency, drawn up at Parliament's request, on 'homophobia and discrimination on grounds of sexual orientation in the EU Member States' and asks to Member States and EU institutions to urgently follow the Agency's recommendations or state their reasons for not doing so;
74. Reminds all Member States that, in line with European Court of Human Rights case-law, freedom of assembly may be exercised even if the opinions of those exercising that right go against the majority, and that, accordingly, a discriminatory ban on marches and any failure to meet the requirement to give appropriate protection to those taking part breach the principles guaranteed by the European Court of Human Rights, by Article 6 of the EU Treaty on common EU values and principles, and by the Charter;
75. Calls on those Member States who have adopted legislation on same-sex partnerships to recognise provisions with similar effects adopted by other Member States; calls on those Member States to propose guidelines for mutual recognition of existing legislation between Member States in order to guarantee that the right of free movement within the European Union for same-sex couples applies under conditions equal to those applicable to heterosexual couples;
76. Urges the Commission to submit proposals ensuring that Member States apply the principle of mutual recognition for homosexual couples, whether they are married or living in a registered civil partnership, in particular when they are exercising their right to free movement under EU law;
77. Calls on those Member States who have not yet done so, and in application of the principle of equality, to take legislative action to overcome the discrimination experienced by some couples on the grounds of their sexual orientation;
78. Calls on the Commission to make sure that Member States grant asylum to persons fleeing from persecution on the grounds of their sexual orientation in their country of origin, to take initiatives at the bilateral and multilateral level to stop the persecutions of persons on the basis of their sexual orientation, and to launch a study on the situation of trans-sexual people in the Member States and candidate countries, with regard inter alia to the risk of harassment and violence;

Xenophobia

79. Urges the Council and the Commission, and the various levels of local, regional and national government in the Member States, to coordinate their measures to combat anti-Semitism and attacks against minority groups, including the Roma, traditional national minorities and third-country nationals in Member States, so as to enforce the principles of tolerance and non-discrimination and to foster social, economic and political integration; calls on all Member States that have not yet done so to declare the

competence of the United Nations Committee on the Elimination of Racial Discrimination to receive and consider individual communications under the UN International Convention on the Elimination of All Forms of Racial Discrimination;

80. Urges the Member States to resolutely prosecute any hate speech in racist media programmes and articles spreading intolerant views, in the form of hate crimes against the Roma, immigrants, foreign nationals, traditional national minorities and other minority groups, or by bands and at neo-Nazi concerts, which can often take place in public without any repercussions; also urges political parties and movements who exercise a strong influence over the mass media to abstain from the hate speech and from the use of defamation against minority groups within the Union;

The youth, elderly and disabled people

81. Calls on Member States to foster an even stronger involvement of social partners in undertaking actions aimed at eliminating discrimination on grounds of disability or age and to radically improve access for young people, the elderly and disabled to the labour market and to training programmes; calls on all the Member States that have not yet done so to ratify the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol;
82. Considers that it is important to make sure that anyone who needs geriatric care or treatment for an illness or disability has access to care and treatment and points out the necessity of giving particular attention to care provision and protection of disabled young people;

Culture

83. Stresses the importance of the media in promoting diversity, multiculturalism and tolerance; urges all media services to prevent contents which may favour racism, xenophobia, intolerance or discrimination of any kind;
84. Encourages Member States in the context of the EU Year of Intercultural Dialogue (2008) to cooperate with a wide range of stakeholders, in particular NGOs, in order to promote intercultural dialogue and to raise awareness, particularly among young people of shared common values and respect for cultural, religious, and linguistic diversity;
85. Underlines the important role of sport in promoting tolerance, mutual respect and understanding; calls on national and European sports bodies to continue their efforts in the fight against racism and xenophobia and encourages the launching of new, stronger and more far-reaching initiatives to build on measures currently in place;
86. Stresses the important role of media literacy in the context of fair and equal educational opportunities for all citizens of the European Union;
87. Calls on the Member States to ensure the effective integration of newcomers, especially children and young people, from States outside the European Union into the education systems of the Member States, and to help them by fostering their cultural diversity.

Armed forces

88. Points out that fundamental rights do not stop at barrack gates and that they also fully apply to citizens in uniform, and recommends that the Member States ensure that fundamental rights are also observed in the armed forces;

Migrants and refugees

Access to international protection and legal immigration

89. Expresses shock at the tragic fate of those who lose their lives in an attempt to reach European territory; since channels for legal migration to the European Union from third countries are virtually non-existent, migrants are left to the mercy of smugglers or traffickers and/or risk their lives in order to travel to Europe, leading to thousands of deaths each year;
90. Calls on the Commission and the Member States to introduce effective, long-term legal migration policies, as well as guarantee genuine access to EU territory and to a procedure for more flexible and coordinated rules governing asylum seekers, rather than focus all their efforts on preventing illegal immigration, deploying to that end a growing range of frontier checks which lack the mechanisms needed to identify potential asylum seekers at Europe's borders, a shortcoming which leads to violations of the principle of *non-refoulement*, as enshrined in the 1951 Convention on the Status of Refugees;
91. Calls on Member States to apply the UNHCR Gender Guidelines (2002) in the implementation of the existing EU directives on asylum;
92. Calls on the Council to clarify the respective roles of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) and the Member States where there is a lack of clarity and transparency regarding the exact extent of FRONTEX's coordination function and the way in which these operations are conducted, with a view to ensuring that border checks are carried out in a manner consistent with respect for human rights; takes the view that there is an urgent need to amend FRONTEX's remit to incorporate rescue at sea; calls for democratic oversight by Parliament of the conclusion by FRONTEX of agreements with third countries, particularly as regards joint organisation of returns;
93. Calls on the Council and the Commission to authorise FRONTEX to establish structured cooperation with the Agency and the United Nations High Commissioner for Refugees (UNHCR), so as to facilitate operations which have implications for the protection of human rights;
94. Is concerned that the trend towards conducting border checks further and further away from the EU's geographical borders is making scrutiny of what happens very difficult when persons seeking refugee status and persons who need international protection come into contact with the authorities of a third country;
95. Urges the Commission, and the Council in particular, to swiftly and ambitiously push

Europe's forward-looking strategy in the field of asylum on the implementation of Phase II, including revision of the directive on minimum standards on procedures in Member States for granting and withdrawing refugee status as well as the directive on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, and the establishment of a European Asylum Support Office;

Reception

96. Calls on the Commission to continue to assess the transposition of the reception directive rigorously, in order to ensure that its non-transposition or partial transposition does not lead, in numerous Member States, to practices which fall short of the minimum standards imposed by the directive;
97. Points out that migrants who do not submit an application for asylum must also be received in specific, suitable facilities where they can be informed – with the aid of interpreters and specially trained cultural mediators – of their rights and the possibilities offered by the law of the host country, Community law and international agreements;

Children of migrants, asylum seekers and refugees

98. Asks that particular attention be paid to the situation of refugee, asylum seeker and migrant children, and to the children of parents who are asylum seekers, refugees or undocumented, so that every child can fully exercise its rights, as defined in the United Nations Convention on the Rights of the Child, including the right to non-discrimination, with the best interest of the child being given the highest possible priority in all actions taken, though acknowledging the important role and the responsibility of parents; draws attention to the development in some Member States of a two-tier education system and stresses that different care and assistance arrangements for children of nationals and non-nationals should neither be discriminatory nor long-lasting and should be justified in terms of ensuring better education, including in the host country languages, for all children;
99. Asks for special attention to be given to unaccompanied minors and minors separated from their parents who arrive on EU territory via irregular immigration, and stresses the duty of the Member States to provide them with assistance and special protection; calls on all authorities – local, regional and national – and on the European institutions to put every effort into cooperating to protect these children from all forms of violence and exploitation, to ensure that a guardian is appointed without delay, to provide them with legal assistance, to endeavour to locate their families and to improve their reception conditions by providing appropriate accommodation, easier access to health services, and education, training, particularly in the official language of the host country, vocational training and complete integration into the education system;
100. Recalls that administrative detention of children should not exist and that children accompanied by their families should be detained only in truly exceptional circumstances, for the shortest time possible and only if such detention is in their

interest, in accordance with Articles 3 and 37(b) of the United Nations Convention on the Rights of the Child;

Integration

101. Calls for greater coordination of national policies for integrating third-country nationals and of European initiatives in this area; stresses that common basic principles for a coherent European framework in this connection should ensure that integration policy encompasses, but also goes beyond, anti-discrimination policy and extends to a variety of areas, such as employment, education and vocational training;
102. Calls for the development of integration and inter-cultural dialogue programmes designed to prevent the tensions that could arise between intra-Community migrants and indigenous communities in the context of the phenomenon of post-enlargement migration;
103. Considers that the most urgent need of minorities of immigrant origin is to integrate as soon as possible into the society of the country in which they are resident, while ensuring that this takes place in a spirit of reciprocity; considers that it is equally important to recognise the right of each person who is born and lives in a Member State to have access to civil rights; believes that the right of long-term residents to participate in political life at local level would promote social and political integration;
104. Is concerned that the lack of effective integration policies is causing the exclusion of hundreds of thousands of non-nationals and stateless persons from working life, society and politics, which also undermines the EU's aim of increasing labour mobility in order to enhance competitiveness and economic prosperity; acknowledges the risk that exclusion may put the person in a vulnerable position, opening the way to radicalisation, trafficking and other forms of exploitation.

Return

105. Stresses that individuals should not be repatriated until after fair and comprehensive consideration of their application; takes the view that, where return would be impossible or inhumane because of a critical situation with regard to compliance with human rights in the country of origin or transit, Member States should refrain from returning them in accordance with ECtHR case-law;
106. Urges Member States to monitor the living and integration conditions of individuals repatriated to countries of origin and of transit and to take measures to provide those individuals with appropriate assistance;

Detention and readmission agreements

107. Is concerned at the fact that, for several years, there has been an increase in the number of detention centres for foreign nationals in Member States and at their borders; on the basis of a host of reports, including those by delegations from its Committee on Civil

Liberties, Justice and Home Affairs, which condemn frequent violations of human rights, calls for the following actions to be taken:

- ensuring access for NGOs specialising in protecting the fundamental rights of migrants and asylum-seekers so that their presence at detention centres is enshrined in law and not simply the result of good will;
- setting up an independent verification body at European level with responsibility for supervising detention centres as regards the protection of human rights;
- asking the Agency for an annual report analysing the situation of individuals placed in detention centres under the authority of Member States, within or outside their borders, and to submit it to Parliament;

108. Is concerned at the fact that, since 2002, readmission clauses have been included in most bilateral agreements concluded by the EU with third countries, including trade agreements, thus resulting in increasing externalisation of the European Union's migration policy, which is characterised by insufficient parliamentary oversight at both European and national level; calls therefore on the Commission and the Council to involve Parliament at an early stage in negotiations on such agreements and to report to it regularly on the number of individuals expelled from the EU on the basis of those clauses;

Freedom of expression

109. Champions freedom of expression as a fundamental value of the European Union; considers that it must be exercised within the constraints of legislation, co-exist with personal responsibility and be based on respect for the rights of others;

110. Welcomes the overall satisfactory situation with regard to press freedom in the Member States, given that all 27 Member States are among the top 56 in the World Wide Press Freedom Index 2007 produced by Reporters without Borders;

111. Calls on those Member States which over the last few years have used their judicial institutions, or are planning to change their legislation in that way, to violate the right of reporters to confidentiality of sources as well as of journalists and of editors to publish information, to improve their legislation and their practices in keeping with the European Court of Human Rights judgment of 27 March 1996 and the Recommendation of the Committee of Ministers of the Council of Europe on the right of journalists not to disclose their sources of information¹³, since violation of that right is nowadays the greatest threat to reporters' freedom of expression in the EU and there has been no significant improvement in this situation over the last few years;

112. Regards freedom of opinion and the independence of the press as universal rights which may not be compromised by any individual or group that feels attacked by what is written or said; stresses at the same time that the right of reparation in the event of false report or defamation must be guaranteed by the courts in accordance with existing legislation;

¹³ Recommendation R (2000)7.

113. Takes the view that freedom of the press should always be exercised within the limits of the law, but is at the same time concerned by the fact that the temptation in recent years to exclude certain subjects from public debate leads in many Member States to a form of unofficial censorship or to self-censorship by the media;

Rights of the child

Violence, poverty and work

114. Condemns all forms of violence against children, and stresses in particular the need to combat the forms of violence most frequently encountered in the Member States: paedophilia, sexual abuse, domestic violence, corporal punishment in schools and other forms of abuse in institutions; calls for reliable, confidential, accessible mechanisms to be put in place to allow children in all the Member States to report violence, and for those mechanisms to be given wide publicity;
115. Calls on the Member States to implement effective measures to forbid the various forms of exploitation of children, including for the purposes of prostitution, for the production of child pornography, drug trafficking, pickpocketing and begging, and any other form of exploitation;
116. Calls on the Member States to take measures to put an end to the practice of unofficial marriage of minors, often at a very young age; believes this practice to be a form of sexual abuse which damages child development and is an incitement to drop out of school;
117. Calls on the thirteen Member States that do not have the relevant legislation totally to ban corporal punishment, in accordance with the 2006 United Nations report on violence towards children, which calls it the most widespread form of violence against children;
118. Stresses the need to ensure that all policies, at both EU and national level, take account of eliminating child labour in all its forms; takes the view that full-time education is the best way of solving the problem, both in terms of preventing such abuse and of breaking the vicious circle of illiteracy and poverty in the future;
119. Notes that in some Member States thousands of children are engaged in the worst forms of work in urban and rural areas, and calls on the Member States in consequence to confront this problem head on by rigorously applying their national laws and organising national education campaigns targeting both parents and children;
120. Recalls that almost 20% of children in the EU live below the poverty line and that the most vulnerable of them come from single-parent families and/or have parents who were born abroad; stresses in consequence that appropriate measures to give access to rights, centred on the needs of the child, must be taken, including support measures for families, and calls on the Member States, particularly those with the highest levels of poverty, to adopt ambitious and achievable targets for reducing child poverty and that of their families;

121. Calls on the Commission to make efforts to incorporate all the various strategies specifically relating to child poverty and that of their families, youth unemployment and social inclusion of minorities in all the relevant development policies, including the strategy documents on poverty reduction and the indicative programmes; and urges Member States to act effectively against child trafficking, to increase cross-border cooperation, to provide specialised training and to implement legal standards for that purpose;
122. Underlines the importance of the protection of children; considers that the initiatives related to an EU Strategy on the Rights of the Child, such as a website fully dedicated to children's matters, special help and emergency telephone lines and the budget allocation for EU programmes for actions in favour of children, should be fully implemented and further developed;

Discrimination

123. Asks the Commission and the Member States to pay particular attention to the various forms of discrimination affecting young people and children, which often take multiple forms and are experienced in particular by children living in poverty, street children and young people from ethnic minorities and migrant groups, as well as children and young people and children with disabilities, and lead to their being debarred from education and healthcare;
124. Asks for Romani children, particularly – but not exclusively – in the Member States where the Roma constitute a large ethnic minority, to be covered by specific measures with a view to putting an end to the discrimination, segregation, and social and educational exclusion of which they are often victims; calls in particular on the Member States to make efforts to put an end to the – entirely unjustified – over-representation of Romani children in institutions for the mentally disabled, to organise campaigns promoting school attendance and to work against the phenomenon of being refused an identity card which is encountered by many Romani children;
125. Urges Member States to ensure the effective integration in education systems of disadvantaged and socially excluded children from the earliest age and to encourage exchanges of best practice to this end;
126. Calls on Member States to fight against discrimination in education, such as, for example, the segregation of Romani children, in accordance with the recent judgment of the European Court of Human Rights in this matter¹⁴;

Justice for young people

127. Takes the view that detention of young offenders should only be a measure of last resort, lasting for the shortest time possible, and calls in consequence for alternatives to imprisonment to be provided for minors; insists that rehabilitation measures such as community service should be implemented in order to achieve the reintegration of these young people into society and employment;

¹⁴ D.H. and Others v. the Czech Republic, relating to cases from earlier years.

128. Notes that the age of criminal responsibility is not the same in all the Member States and is concerned at the fact that in some of them children regularly appear before adult courts and in others the special youth courts are closed; calls on the Member States to bring their judicial systems into line so that no child is ever tried in the same way as an adult;
129. Calls on all the Member States to provide effective, independent representation for children in all judicial or semi-judicial procedures pertaining to them, and to ensure that all children are assigned a guardian *ad litem* if no member of their family can act on their behalf; stresses that all children, including those placed in judicial care facilities, should be informed by the authorities of the existence of complaints mechanisms;

Assistance for children

130. Calls on the Member States to take action to guarantee the right of children to a family and to act accordingly to find effective solutions to prevent separation of parents and children and abandonment of children; calls on them to move away from the policy of large institutions and instead to reform, develop and reinforce effective alternative child-care structures based on the family and the community; in the event of placement, asks the Member States for the means to enable children to return to their families;
131. Urges the Member States to take the necessary measures to provide high-quality care structures for children, including continuing vocational education, good working conditions and a decent wage for childcare professionals; stresses that such structures and their staff provide children with solid structures for their future and also benefit their parents, particularly those whose workload is very heavy or who are single parents, and that they also provide an alternative for children whose family structures are inadequate or non-existent;

Participation

132. Recalls that children have a right to express their opinion, in a way appropriate to their age and level of maturity, and that they must be given the opportunity to belong to a children's group or association where they will meet other children and learn to express themselves in this setting; calls in consequence on the Member States and local authorities to encourage projects designed to give children the opportunity to express themselves in this way in the context of local children's councils or parliaments, while ensuring that the most excluded children can take part in these and that information about their activities is widely distributed among children;
133. Welcomes the fact that the Commission has set up a forum bringing together representatives of the European institutions and national and international organisations working in the area of children's rights; takes the view that children's participation should be one of the main objectives of the forum, and calls on the Commission in consequence to ensure that children participate at every stage of the forum's activities;
134. Takes the view that it is important that information on children's rights should be made available to them in an accessible manner and by appropriate means; calls on the

Commission to develop effective communication tools which will improve children's awareness of their rights, of the situation of children in the Member States and of the activities of the European Union in this area;

Social rights

135. Takes the view that poverty and social exclusion can only be combated by guaranteeing all the fundamental rights, including economic and social rights, of everyone; approves in this context the decision to make 2010 the European Year for Combating Poverty and Social Exclusion; calls on the Commission and the Member States to agree on and pursue ambitious objectives in this area;
136. Stresses that there is a set of indivisible, interdependent fundamental rights to which all human beings must be guaranteed genuine access;

Poverty

137. Stresses that Article 30 of the revised European Social Charter enshrines the right to protection from poverty and social exclusion, and calls on the Member States to ratify it;
138. Stresses the growing importance to be given to policies of 'active inclusion' of those furthest away from the employment market;
139. Stresses that extreme poverty and social exclusion constitute a violation of fundamental rights as a whole;
140. Hopes for genuine integration of the social dimension and fundamental rights into all EU policies;
141. Expresses its commitment to a sustainable social development model that is consistent with an approach based on social rights aimed principally at social cohesion;
142. Recalls that Articles 34 and 36 of the Charter recognise a right to social security and social services, and access to services of general economic interest; calls on the Member States to ensure that all citizens, including the most vulnerable, can access those rights;
143. Recalls that action to combat poverty must be taken in partnership with the most disadvantaged population groups, who are the most closely concerned and hence in the best position to report on the consequences of not having access to rights and to suggest remedies; wishes to see a participative democracy which pays special attention to participation by people faced with poverty, exclusion, discrimination and inequality;

Homelessness

144. Calls on the Commission to develop a European framework definition of homelessness, gather comparable and reliable statistical data, and provide annual updates on action taken and progress made in EU Member States towards ending homelessness;

145. Urges Member States to devise ‘winter emergency plans’ as part of a wider homelessness strategy;

Housing

146. Recalls that Article 34(3) of the Charter recognises a right to social and housing assistance for all those who lack sufficient resources in order to combat social exclusion and poverty; accordingly calls on Member States to guarantee access to decent housing;
147. Recalls the observations and principles set out in the report of the Commissioner for Human Rights of the Council of Europe on decent housing¹⁵;

Health

148. Recalls that article 35 of the Charter provides everyone with a right of access to preventive health care and the right to benefit from medical treatment; calls the Member States to insure access to adequate healthcare in particular for those who are on low incomes and those whose state of health requires long or expensive intensive care;
149. Calls Member States and the EU to make sure that persons abusing narcotic substances have full access to specialised health services and alternatives treatment and are not treated as criminals only because of personal consumption of illicit drugs;

Workers

150. Stresses the need to improve transparency in the labour market in such a way that all work (temporary, permanent, full-time, part-time or casual) is declared, decently paid and fully compliant with workers’ rights;
151. Recognises that not all Member States have national legislation laying down minimum wages; calls for instruments designed to guarantee access for all to decent levels of income in order to guarantee that all workers in the EU are paid a wage that allows them to live a dignified life;
152. Urges the Member States and candidate countries to ratify and implement fully the International Labour Organization (ILO) conventions; asks the Commission and the Member States to support the ILO in strengthening its control system and mechanisms;
153. Encourages businesses to adopt responsible, non-discriminatory recruitment and career development policies in order to stimulate employment for women, young and disadvantaged people;
154. Recalls that discrimination must also be seen as interfering with the four fundamental freedoms - particularly the free movement of persons - and as such constitutes an obstacle to the functioning of the internal market; calls on the Commission to encourage the Member States to review the transitional provisions regulating access to their labour

¹⁵ Commissioner's viewpoint of 29 October 2008 entitled "*No one should have to be homeless - adequate housing is a right*"

markets in order to eliminate differentiation between European citizens in this respect;

155. Ask Member States to review their laws so to ensure that sex workers, regardless of their legal status, are not exploited by criminal organisations, that they are guaranteed their fundamental rights and that they can access appropriate social and health services;
156. Calls on the Commission and the Member States to support social inclusion of people who are furthest from the employment market and to tackle the reality of ‘poor workers’; takes the view that such strategies should strike a fair balance between the issues of fair wages, work-life balance, good working conditions, social protection, employability and job security;

Irregular employment

157. Calls on the Member States to ratify the United Nations Convention on the Rights of Migrant Workers¹⁶, and draws their attention to the fact that most people who work without being in possession of the appropriate immigration documents are doing work which is legal and essential to Europe’s economies, such as fruit picking, construction or maintenance work, and care of the sick, the elderly and children;
158. Calls on the European institutions and Member States to stop using the term ‘illegal immigrants’, which has very negative connotations, and instead to refer to ‘irregular/undocumented workers/migrants’;
159. Reiterates that employment law is there to protect workers who find themselves in unfair employment situations, which is precisely the situation of undocumented workers, and calls on the Member States to safeguard the right to trade-union membership for all workers, including undocumented workers;
160. Calls on the Commission to give the same priority and urgency, by treating them as a single package, to the immigration policy currently under development and to ‘sanctions against employers of illegally staying third-country nationals’;
161. Stresses that the first task of employment inspectors is to protect workers, and calls in consequence on the Member States to:
 - ensure that undocumented workers can safely file a complaint against an exploitative employer without being threatened with expulsion;
 - invest in training of employment inspectors and those who offer assistance to undocumented workers about possible ways to file an official complaint against labour law infringements,
 - establish a system of sanctions which does not penalise workers instead of employers;

¹⁶ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by United Nations General Assembly Resolution 45/158 of 18 December 1990.

Elderly people

162. Takes the view that the ageing population constitutes a challenge and must be seen as an opportunity to involve people with long and valuable experience more closely in society, thus helping to promote active ageing; considers that efforts need to be done for incorporating ageing workers in the labour market.
163. Takes the view that special attention must be paid to elderly women living alone, who form a particularly vulnerable group and are often the first to sink into poverty when there is an economic downturn;
164. Notes the necessity of combating discrimination against elderly women and of boosting their labour market participation (i.e. by lifelong learning programmes) given their vulnerability and increasing number within the Union;
165. Recalls that Article 25 of the Charter confers a right to a dignified and independent life for the elderly; recommends therefore, in conjunction with Articles 34 and 35 of the Charter, preventive medical care and social security for the elderly to ensure a dignified life;
166. Asks to those Member States who have not yet done so to introduce legislation on living wills to ensure that, according to Article 8 of the Oviedo Convention on Human Rights and Biomedicine, "The previously expressed wishes relating to a medical intervention by a patient who is not, at the time of the intervention, in a state to express his or her wishes shall be taken into account" and to ensure the right to dignity at the end of life;

* * *

167. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States and candidate countries, the Agency, the Committee of Ministers, the Parliamentary Assembly and the Human Rights Commissioner of the Council of Europe, and the appropriate bodies of the Organization for Security and Cooperation in Europe and the United Nations.

25.1.2008

OPINION OF THE COMMITTEE ON CULTURE AND EDUCATION

for the Committee on Civil Liberties, Justice and Home Affairs

on the situation of fundamental rights in the European Union 2004-2007
(2007/2145(INI))

Rapporteur: Viktória Mohácsi

SUGGESTIONS

The Committee on Culture and Education calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Recalls the importance of the European Union Agency for Fundamental Rights, established by Council Regulation (EC) No 168/2007 of 15 February 2007¹⁷, which provides Member States with assistance and expertise in implementing Community law to fully respect fundamental rights but considers the current vacancy of the Director of the Agency to be problematic and to be restricting its effectiveness;
2. Welcomes the recent signing of the Charter of Fundamental Rights of the European Union¹⁸, which will be a part of the new EU Reform Treaty and the rights proclaimed by which will have to be taken into account by every single piece of legislation emanating from the European Union;
3. Urges those countries which have not yet signed or ratified the Council of Europe's European Charter for Regional or Minority Languages of 1992 and Framework Convention for the Protection of National Minorities of 1994 to do so at the earliest opportunity;
4. Urges Member States to ensure the effective integration in education systems of disadvantaged and socially excluded children from the earliest age, and to encourage to this end exchanges of best practice;
5. Underlines the importance of the protection of children; considers that the initiatives related to an EU Strategy on the Rights of the Child, such as a website fully dedicated to children's matters, special help and emergency telephone lines and the budget allocation

¹⁷ OJ L 53, 22.2.2007, p. 1

¹⁸ Formally proclaimed in the European Parliament on 12 December 2007.

for EU programmes for actions in favour of children, should be fully implemented and further developed;

6. Calls on Member States to fight against discrimination in education, such as, for example, the segregation of Romani children, in accordance with the recent judgment of the European Court of Human Rights in Strasbourg in this matter¹⁹;
7. Stresses the importance of the media in promoting diversity, multiculturalism and tolerance; urges all media services to prevent contents which may favour racism, xenophobia, intolerance or discrimination of any kind;
8. Encourages Member States in the context of the EU Year of Intercultural Dialogue (2008) to cooperate with a wide range of stakeholders, in particular NGOs, in order to promote intercultural dialogue and to raise awareness, particularly among young people of shared common values and respect for cultural, religious, and linguistic diversity;
9. Underlines the important role of sport in promoting tolerance, mutual respect and understanding; calls on national and European sports bodies to continue their efforts in the fight against racism and xenophobia and encourages the launching of new, stronger and more far-reaching initiatives to build on measures currently in place;
10. Stresses the important role of media literacy in the context of fair and equal educational opportunities for all citizens of the European Union;
11. Calls on the Member States to combat racism, homophobia and discrimination of all kinds in the area of education and culture;
12. Calls on the Member States to ensure the effective integration of newcomers, especially children and young people, from states outside the European Union into the education systems of EU Member States, and to help them by fostering their cultural diversity.

¹⁹ D.H. and Others v. the Czech Republic, relating to cases from earlier years.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	22.1.2008
Result of final vote	+: 33 -: 0 0: 1
Members present for the final vote	Ivo Belet, Guy Bono, Nicodim Bulzesc, Marie-Hélène Descamps, Věra Flasarová, Milan Gaľa, Claire Gibault, Vasco Graça Moura, Luis Herrero-Tejedor, Ruth Hieronymi, Mikel Irujo Amezaga, Ramona Nicole Mănescu, Manolis Mavrommatis, Marianne Mikko, Ljudmila Novak, Dumitru Oprea, Doris Pack, Zdzisław Zbigniew Podkański, Mihaela Popa, Christa Prets, Karin Resetarits, Pál Schmitt, Hannu Takkula, Helga Trüpel, Thomas Wise, Tomáš Zatloukal
Substitute(s) present for the final vote	Victor Boștinaru, Emine Bozkurt, Ignasi Guardans Cambó, Gyula Hegyi, Viktória Mohácsi, Nina Škottová, Ewa Tomaszewska
Substitute(s) under Rule 178(2) present for the final vote	Donata Gottardi

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	2.12.2008
Result of final vote	+: 29 -: 7 0: 7
Members present for the final vote	Alexander Alvaro, Roberta Angelilli, Emine Bozkurt, Philip Bradbourn, Mihael Brejc, Kathalijne Maria Buitenweg, Maddalena Calia, Giusto Catania, Jean-Marie Cavada, Carlos Coelho, Panayiotis Demetriou, Gérard Deprez, Armando França, Urszula Gacek, Kinga Gál, Jeanine Hennis-Plasschaert, Magda Kósáné Kovács, Roselyne Lefrançois, Baroness Sarah Ludford, Claude Moraes, Rareş-Lucian Niculescu, Martine Roure, Sebastiano Sanzarello, Inger Segelström, Csaba Sógor, Vladimir Urutchev, Ioannis Varvitsiotis, Manfred Weber, Renate Weber, Tatjana Ždanoka
Substitute(s) present for the final vote	Monika Beňová, Simon Busuttil, Marco Cappato, Monica Giuntini, Ignasi Guardans Cambó, Sophia in 't Veld, Metin Kazak, Marian-Jean Marinescu, Stefano Zappalà
Substitute(s) under Rule 178(2) present for the final vote	Richard Howitt, Helmuth Markov, Luisa Morgantini, Felekna Uca