

READING MATERIALS

1. Brief History of European Integration
2. Declaration of 9 May 1950 by French foreign minister Robert Schuman in the “Salon de l’Horloge” of the Quai d’Orsay, Paris
3. Declaration on the
4. occasion of the fiftieth anniversary of the signature of the Treaties of Rome, Berlin, 25 March 2007 (“Berlin Declaration”)
5. Complaint to the European Ombudsman (OJ C 157, 1.6.1996, p. 1)
6. Complaint to the European Commission (OJ C 119, 30.4.1999, p. 5)
7. Council Decision 2004/338/EC, Euratom of 22 March 2004 adopting the Council’s Rules of Procedure (OJ L 106, 15.4.2004, p. 22) – Extracts
8. Council Regulation (EC) No 930/2004 of 1 May 2004 on temporary derogation measures relating to the drafting in Maltese of the acts of the institutions of the European Union (OJ L 169, 1.5.2004, p. 1)
9. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43)
10. Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ L 39, 14.2.1976, p. 40)
11. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22)
12. Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3)
13. Proposal for a Council Framework Decision on combating racism and xenophobia, COM(2001) 664 final
14. ECJ, Case C-234/04, *Kapferer*, Rec. 2006, p. I-2585
15. Joint Declaration by the European Parliament, Council and the Commission concerning the protection of fundamental rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms, Luxembourg, 5 April 1977 (OJ C 103, 27.4.1977, p. 1)
16. Charter of Fundamental Rights of the European Union of 7 December 2000 (OJ C 364, 18.12.2000, p. 1)
17. Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385)

1. Brief History of European Integration

(Delegation of the European Commission to Japan: http://jpn.cec.eu.int/union/showpage_en_union.history.php)

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| 19 September 1946 | Speaking in Zurich, Winston Churchill calls for a United States of Europe. |
| 9 May 1950 | French Foreign Minister Robert Schuman proposes creation of European Coal and Steel Community (ECSC). |
| 18 April 1951 | Belgium, the Federal Republic of Germany, France, Italy, Luxembourg and the Netherlands ('the Six') sign Treaty establishing European Coal and Steel Community (Treaty of Paris). |
| 10 August 1952 | The High Authority, ECSC executive institution, starts work under Presidency of Jean Monnet. |
| 10 February 1953 | Common market established for coal, iron ore and scrap. |
| 1 May 1953 | Common market established for steel. |
| 1-2 June 1955 | Foreign Ministers of the Six, meeting in Messina, agree to move ahead with integration. Intergovernmental committee set up, chaired by Paul-Henri Spaak. |
| 25 March 1957 | In Rome the Six sign Treaties setting up European Economic Community (EEC) and Euratom (Treaty of Rome). |
| 1 January 1958 | Treaty of Rome comes into effect. Walter Hallstein is first President of the EEC Commission, Louis Armand first President of Euratom Commission. |
| 14 January 1962 | Council adopts first four regulations for a common market in agriculture, first financial regulation and regulation governing competition. |
| 22 January 1963 | France and Federal Republic of Germany sign Treaty of Friendship and Cooperation in Paris (Elysée Treaty). |
| 20 July 1963 | Association Convention between EEC and 17 African States and Madagascar signed in Yaounde (Yaounde Convention). |
| 8 April 1965 | Treaty signed merging Executives of the three European Communities (ECSC, EEC, Euratom). |
| 1 July 1967 | Merger Treaty of 8 April 1965 enters into force. Jean Rey is first Commission President for all three Communities (ECSC, EEC, Euratom). |
| 1 July 1968 | Customs union completed and common external tariff established. |
| 29 July 1968 | Freedom of movement guaranteed for workers within the Community in order to establish common labour market. |
| 18 December 1968 | Commission presents 'Mansholt Plan' for reform of agriculture in the Community to Council. |
| 29 July 1969 | Second Yaounde Convention signed. It comes into force on 1 January 1971. |
| 1-2 December 1969 | Heads of State or Government meet in The Hague to discuss completion of single market, greater integration and enlargement of the EC. They agree to phase in economic and monetary union (EMU) by 1980, to speed up integration and cooperation on political matters. They also agree to open negotiations with Denmark, Ireland, Norway and the United Kingdom. |
| 19-22 December 1969 | Council agrees a financial arrangement for agriculture, to allocate EC its own resources and to strengthen European Parliament's budgetary powers. |
| 1 January 1970 | Responsibility for external trade policy passes from Member States to EC. |

21 April 1970	Council decides that from 1975 EC will receive its own resources.
8 October 1970	Werner Plan on phased attainment of economic and monetary union, named after Luxembourg's Prime Minister, is presented to the Council and Commission.
1 July 1971	Community agrees 'system of generalized preferences' in trade with 91 developing countries.
24 April 1972	Currency 'snake' set-up: The Six agree to limit the margin of fluctuation between their currencies to 2.25%.
1 January 1973	EC formally enlarged to nine members. EC granted sole responsibility for common trade policy.
11 and 12 March 1973	Ireland, Italy and United Kingdom leave currency 'snake'. Finance Ministers decide joint float against dollar with fixed exchange rates.
21 January 1974	Employment and Social Affairs Ministers adopt the Community social action programme whereby EC becomes active in three areas: employment issues; harmonization of living and working conditions; and, participation by both sides of industry in EC social and economic policy decisions.
9-10 December 1974	In Paris Heads of State or Government agree to meet regularly as European Council.
28 February 1975	EC and 46 ACP States sign first Lomé Convention granting financial and technical assistance and trade concessions.
10-11 March 1975	In Dublin Heads of State or Government meet for first time as European Council.
18 March 1975	Council of Ministers agrees to set up European Regional Development Fund.
16 September 1975	Official relations established between EC and China.
1 July 1977	Customs duties between nine EC members completely removed.
6-7 July 1978	Bremen European Council approves plan to set up European Monetary System (EMS) and European monetary unit (Ecu).
13 March 1979	EMS takes effect retrospectively from 1 January 1979.
7-10 June 1979	First elections to European Parliament by direct universal suffrage held in the nine Member States.
17-20 July 1979	First session of directly elected Parliament in Strasbourg. Simone Veil elected first President of Parliament.
31 October 1979	Second Lomé Convention signed by EC and 58 ACP States in Lomé
7-8 March 1980	Community signs cooperation agreement with ASEAN States.
1 January 1981	Greece becomes 10th Member State.
23 February 1982	In a referendum Greenland votes to leave EC.
25 January 1983	After six years' negotiation Member States agree common fisheries policy.
26 September 1984	Commercial and economic cooperation agreement initialled by China and EC.
8 December 1984	Third Lomé Convention signed by EC and 65 ACP States.
14 June 1985	Commission presents White Paper on completion of single market.
1 January 1986	Spain and Portugal join Community, bringing membership to 12.
17 and 28 February 1986	Single European Act signed by Governments of the 12 Member States.

1 July 1987	Single European Act enters into force.
11- 12 February 1988	Brussels European Council agrees to 'Delors I package' reforming financial system and common agricultural policy and doubling EC Structural Funds.
29 March 1988	Commission presents Cecchini report ('The Cost of non-Europe') quantifying the advantages of a single market.
26-27 June 1989	Madrid European Council agrees to convene Intergovernmental Conference in line with 'Delors Plan', drawn up by governors of central banks under Commission President Delors, providing for creation of EMU in three stages.
29 June 1989	Spain joins EMS.
15 December 1989	Fourth Lomé Convention signed by EC and 68 ACP States
19 December 1989	Start of negotiations between EC and EFTA countries on strengthening cooperation and forming European Economic Area (EEA).
19 June 1990	Second Schengen Agreement signed in Luxembourg
25-26 June 1990	Dublin European Council agrees to convene an Intergovernmental Conference on EMU and another on political union.
1 July 1990	Stage I of EMU begins.
3 October 1990	Treaty between Federal Republic of Germany and German Democratic Republic enters into force unifying Germany. The five new Länder are part of EC.
8 October 1990	United Kingdom becomes 10th member of EMS.
29 March 1991	Members of Schengen Agreement and Poland agree abolition of visa requirement, which takes effect on 8 April 1991.
24 June 1991	Finance Ministers achieve breakthrough on harmonizing VAT and excise duties on alcohol, tobacco and mineral oil. From 1993 standard rate of VAT should be no less than 15%.
25 June 1991	Spain and Portugal join Schengen Agreement.
9-10 December 1991	European Council Summit in Maastricht. Heads of State or Government reach agreement on draft Treaty on European Union.
7 February 1992	Maastricht Treaty on European Union signed.
5 April 1992	Portuguese escudo joins EMS.
2 May 1992	In Porto EC and EFTA Foreign Ministers sign agreement establishing European economic area (EEA).
2 June 1992	In a referendum 50.7% of Danes vote against ratification of Union Treaty.
20 September 1992	In a referendum 51.05% of French vote in favour of ratification of Union Treaty.
11-12 December 1992	Edinburgh European Council accepts Danish wish to opt out of a single currency and common defence policy in the European Union. It endorses Delors II package on financial arrangements for EC until 1999 and growth initiative.
1 January 1993	Single market largely completed.
17 March 1993	Additional protocol enables EC and EFTA to permit EEA Treaty to enter into force following withdrawal of Switzerland.
18 May 1993	Following acceptance of Denmark's opt-outs, 56.8% of Danes vote in favour of Union Treaty in second referendum.

2 August 1993 Following upheavals within EMS, Economics and Finance Ministers temporarily widen ERM currency bands from 2.25 to 15%.

29 October 1993 At special summit in Brussels European Union Heads of State or Government agree location of new EU institutions. European Monetary Institute to be in Frankfurt, Europol in the Netherlands and European Environment Agency in Denmark.

1 November 1993 Treaty on European Union enters into force.

10-11 December 1993 Economic situation in European Union is main topic of Brussels European Council meeting. Commission President Delors presents White Paper on growth, competitiveness and employment.

1 January 1994 Stage II of economic and monetary union begins.

9 and 10 December 1994 Essen European Council agrees strategy to bring Central and East European States closer to EU and approves Commission's new Mediterranean strategy.

1 January 1995 Austria, Finland and Sweden join EU.

9 January 1995 Austria joins EMS.

26 March 1995 Schengen Agreement enters into force. No more passport controls between Benelux countries, France, Germany, Portugal and Spain.

26 and 27 June 1995 Cannes European Council gives mandate to reflection group to prepare 1996 Intergovernmental Conference on revision of Treaty on European Union.

17 September 1995 Sweden holds European Parliament elections for first time.

27 and 28 November 1995 At Euro-Mediterranean Conference in Barcelona EU agrees long-term partnership with North African and Middle East States. One aim is Europe-Mediterranean free-trade area by 2010.

2 December 1995 New transatlantic agenda signed in Madrid. European Union and USA declare willingness to develop trade and work together closely to resolve international problems.

15-16 December 1995 Madrid European Council decides on euro as name for future European currency. Timetable for introduction of EMU to remain unaltered. From 2002 Euro is to be sole legal tender for EMU Members. Free-trade agreement signed with Mercosur States.

1-2 March 1996 First Asia-Europe Summit takes place in Bangkok, Thailand

29 March 1996 Intergovernmental Conference on revision of Maastricht Treaty formally opens in Turin. Within 12 months proposals are to be developed on justice and home affairs, closeness to people, openness, improving institutional effectiveness and foreign policy decision-making structures.

21-22 June 1996 Florence European Council adopts Europol Convention.

13 October 1996 Austria holds European Parliament elections for first time.

14 October 1996 Finland joins EMS.

20 October 1996 Finland holds European Parliament elections for first time.

24 November 1996 Italy rejoins the EMS exchange rate mechanism.

13-14 December 1996 The European Council in Dublin agrees a stability and growth pact for the economic and monetary union and the future euro notes are presented to the public. The European leaders commit themselves to fighting international crime.

16 and 17 June 1997 Intergovernmental Conference at the summit level in Amsterdam agrees on the New Treaty on the European Union (Amsterdam Treaty).

2 October 1997 Amsterdam Treaty signed.

12 March 1998 European Conference of the EU Member States and the 11 applicant countries takes place in London under UK Presidency.

31 March 1998 Opening of accession negotiations with Cyprus, Hungary, Poland, Estonia, Czech Republic and Slovenia.

1-2 May 1998 Council of the European Union in the composition of the Heads and State or Government decides that 11 Member States will join stage III of the Economic and Monetary Union to be launched on 1 January 1999.

1 June 1998 European Central Bank begins its business in Frankfurt.

1 January 1999 Stage III of the Economic and Monetary Union begins and the euro becomes the currency of the participating EU Member States.

1 May 1999 Amsterdam Treaty enters into force.

13 September 1999 Mr. Javier Solana Madariaga is appointed High Representative for the CFSP and Secretary-General of the Council.

15 September 1999 The European Commission headed by Romano Prodi is approved by the European Parliament and takes office.

10-11 December 1999 The European Council held in Helsinki decides to open accession negotiations with Romania, the Slovak Republic, Latvia, Lithuania, Bulgaria and Malta. It also recognises Turkey as a candidate country.

15 February 2000 Opening of accession negotiations with Romania, the Slovak Republic, Latvia, Lithuania, Bulgaria and Malta.

23-24 March 2000 A special European Council is held in Lisbon to decide on a new Union strategy to strengthen employment, economic reform and social cohesion as part of a knowledge-based economy.

3-4 April 2000 First Africa-Europe Summit takes place in Cairo, Egypt.

23 June 2000 The Community and the African, Caribbean and Pacific countries (ACP) sign, in Cotonou, Benin, a Convention to replace the Lomé ones.

7-9 December 2000 The Intergovernmental Conference concluded at the European Council in Nice agrees on the new Treaty on the European Union (Nice Treaty).

1 January 2001 Greece becomes the twelfth Member State to adopt the euro.

15 December 2001 The European Council convenes a convention on the future of the European Union to pave the way for the next Intergovernmental Conference.

1 January 2002 The euro notes and coins enter into circulation in the twelve participating Member States.

1 March 2002 The dual circulation period ends and the euro becomes the sole legal tender in the twelve participating Member States.

1 February 2003 Nice Treaty enters into force.

1 May 2004 The Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia join the European Union.

18 June 2004 European Union leaders reach agreement on the Constitutional Treaty.

29 October 2004 European Union leaders sign Constitutional Treaty in Rome.

25 April 2005 Accession treaties signed with Bulgaria and Romania.

16-17 June 2005 At a European Council in Brussels, leaders opt to invoke a period of reflection and discussion on the Constitutional Treaty.

3 Oct 2005	European Union accession negotiations open with Croatia and Turkey.
10 March 2006	The EU and Russia sign a joint document to enhance bilateral cooperation in space activities.
7 April 2006	The ".eu" top-level domain opens for all residents within the European Union – citizens, associations, clubs, etc. – providing new Internet space and promoting an EU internet identity.
11 July 2006	The Council of the European Union adopts a decision allowing Slovenia to join the euro area on 1 January, 2007.
26 September 2006	European Commission confirms Bulgaria and Romania's EU accession on 1 January, 2007
1 January 2007	Slovenia becomes the 13th country to adopt the euro while Bulgaria and Romania join the EU, increasing the number of Member States to 27.

2. Declaration of 9 May 1950 by French foreign minister Robert Schuman in the “Salon de l’Horloge” of the Quai d’Orsay, Paris

World peace cannot be safeguarded without the making of creative efforts proportionate to the dangers which threaten it.

The contribution which an organised and living Europe can bring to civilisation is indispensable to the maintenance of peaceful relations. In taking upon herself for more than 20 years the role of champion of a united Europe, France has always had as her essential aim the service of peace. A united Europe was not achieved and we had war.

Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity. The coming together of the nations of Europe requires the elimination of the age-old opposition of France and Germany. Any action taken must in the first place concern these two countries.

With this aim in view, the French Government proposes that action be taken immediately on one limited but decisive point:

It proposes that Franco-German production of coal and steel as a whole be placed under a common High Authority, within the framework of an organisation open to the participation of the other countries of Europe.

The pooling of coal and steel production should immediately provide for the setting up of common foundations for economic development as a first step in the federation of Europe, and will change the destinies of those regions which have long been devoted to the manufacture of munitions of war, of which they have been the most constant victims.

The solidarity in production thus established will make it plain that any war between France and Germany becomes not merely unthinkable, but materially impossible. The setting up of this powerful productive unit, open to all countries willing to take part and bound ultimately to provide all the member countries with the basic elements of industrial production on the same terms, will lay a true foundation for their economic unification.

This production will be offered to the world as a whole without distinction or exception, with the aim of contributing to raising living standards and to promoting peaceful achievements. With increased resources Europe will be able to pursue the achievement of one of its essential tasks, namely, the development of the African continent.

In this way, there will be realised simply and speedily that fusion of interest which is indispensable to the establishment of a common economic system; it may be the leaven from which may grow a wider and deeper community between countries long opposed to one another by sanguinary divisions.

By pooling basic production and by instituting a new High Authority, whose decisions will bind France, Germany and other member countries, this proposal will lead to the realisation of

the first concrete foundation of a European federation indispensable to the preservation of peace.

To promote the realisation of the objectives defined, the French Government is ready to open negotiations on the following bases :

The task with which this common High Authority will be charged will be that of securing in the shortest possible time the modernisation of production and the improvement of its quality; the supply of coal and steel on identical terms to the French and German markets, as well as to the markets of other member countries; the development in common of exports to other countries; the equalisation and improvement of the living conditions of workers in these industries.

To achieve these objectives, starting from the very different conditions in which the production of member countries is at present situated, it is proposed that certain transitional measures should be instituted, such as the application of a production and investment plan, the establishment of compensating machinery for equating prices, and the creation of a restructuring fund to facilitate the rationalisation of production. The movement of coal and steel between member countries will immediately be freed from all customs duty, and will not be affected by differential transport rates. Conditions will gradually be created which will spontaneously provide for the more national distribution of production at the highest level of productivity.

In contrast to international cartels, which tend to impose restrictive practices on distribution and the exploitation of national markets, and to maintain high profits, the organisation will ensure the fusion of markets and the expansion of production.

The essential principles and undertakings defined above will be the subject of a treaty signed between the States and submitted for the ratification of their parliaments. The negotiations required to settle details of applications will be undertaken with the help of an arbitrator appointed by common agreement. He will be entrusted with the task of seeing that the agreements reached conform with the principles laid down, and, in the event of a deadlock, he will decide what solution is to be adopted. The common High Authority entrusted with the management of the scheme will be composed of independent persons appointed by the governments, giving equal representation. A chairman will be chosen by common agreement between the governments. The authority's decisions will be enforceable in France, Germany and other member countries. Appropriate measures will be provided for means of appeal against the decisions of the authority.

A representative of the United Nations will be accredited to the authority, and will be instructed to make a public report to the United Nations twice yearly, giving an account of the working of the new organisation, particularly as concerns the safeguarding of its objectives.

The institution of the High Authority will in no way prejudice the methods of ownership of enterprises. In the exercise of its functions, the common High Authority will take into account the powers conferred upon the International Ruhr Authority and the obligations of all kinds imposed upon Germany, so long as these remain in force.

3. Declaration on the occasion of the fiftieth anniversary of the signature of the Treaties of Rome, Berlin, 25 March 2007 (“Berlin Declaration”)

For centuries Europe has been an idea, holding out hope of peace and understanding. That hope has been fulfilled. European unification has made peace and prosperity possible. It has brought about a sense of community and overcome differences. Each Member State has helped to unite Europe and to strengthen democracy and the rule of law. Thanks to the yearning for freedom of the peoples of Central and Eastern Europe the unnatural division of Europe is now consigned to the past. European integration shows that we have learnt the painful lessons of a history marked by bloody conflict. Today we live together as was never possible before.

We, the citizens of the European Union, have united for the better.

I.

In the European Union, we are turning our common ideals into reality: for us, the individual is paramount. His dignity is inviolable. His rights are inalienable. Women and men enjoy equal rights.

We are striving for peace and freedom, for democracy and the rule of law, for mutual respect and shared responsibility, for prosperity and security, for tolerance and participation, for justice and solidarity.

We have a unique way of living and working together in the European Union. This is expressed through the democratic interaction of the Member States and the European institutions. The European Union is founded on equal rights and mutually supportive cooperation. This enables us to strike a fair balance between Member States' interests.

We preserve in the European Union the identities and diverse traditions of its Member States. We are enriched by open borders and a lively variety of languages, cultures and regions. There are many goals which we cannot achieve on our own, but only in concert. Tasks are shared between the European Union, the Member States and their regions and local authorities.

II.

We are facing major challenges which do not stop at national borders. The European Union is our response to these challenges. Only together can we continue to preserve our ideal of European society in future for the good of all European Union citizens. This European model combines economic success and social responsibility. The common market and the euro make us strong. We can thus shape the increasing interdependence of the global economy and evergrowing competition on international markets according to our values. Europe's wealth lies in the knowledge and ability of its people; that is the key to growth, employment and social cohesion.

We will fight terrorism, organised crime and illegal immigration together. We stand up for liberties and civil rights also in the struggle against those who oppose them. Racism and xenophobia must never again be given any rein.

We are committed to the peaceful resolution of conflicts in the world and to ensuring that people do not become victims of war, terrorism and violence. The European Union wants to promote freedom and development in the world. We want to drive back poverty, hunger and disease. We want to continue to take a leading role in that fight.

We intend jointly to lead the way in energy policy and climate protection and make our contribution to averting the global threat of climate change.

III.

The European Union will continue to thrive both on openness and on the will of its Member States to consolidate the Union's internal development. The European Union will continue to promote democracy, stability and prosperity beyond its borders.

With European unification a dream of earlier generations has become a reality. Our history reminds us that we must protect this for the good of future generations. For that reason we must always renew the political shape of Europe in keeping with the times. That is why today, 50 years after the signing of the Treaties of Rome, we are united in our aim of placing the European Union on a renewed common basis before the European Parliament elections in 2009.

For we know, Europe is our common future.

4. Complaint to the European Ombudsman (OJ C 157, 1.6.1996, p. 1)

1. 6. 96

EN

Official Journal of the European Communities

No C 157/1

I

(Information)

EUROPEAN PARLIAMENT

How to complain to the European Ombudsman

(96/C 157/01)

The European Ombudsman conducts inquiries into possible maladministration in the activities of the Community institutions and bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role. The Ombudsman conducts, either on his own initiative or following a complaint, inquiries for which he finds grounds.

Any citizen of the Union or any natural or legal person residing or having its registered office in a Member State of the Union can refer a complaint to the Ombudsman. The complaint can be sent either directly to the Ombudsman or through a Member of the European Parliament.

The complaint must be about *maladministration* by the *Community institutions or bodies*.

Maladministration means *poor or failed administration*, for example administrative irregularities or omissions, abuse of power, negligence, unlawful procedures, unfairness, malfunction or incompetence, discrimination, avoidable delay or lack or refusal of information.

The Community *institutions* are the Parliament, the Council, the Commission, the Court of Justice and the Court of Auditors. The *bodies* are for example the Economic and Social Committee, the Committee of the Regions, the European Monetary Institute (future European Central Bank), the European Investment Bank and all the 'decentralized' bodies of the European Communities.

The complaint must be made *within two years* of the date on which the facts became known and must have been preceded by *appropriate administrative steps*; complaints from EC officials must have been preceded by usual internal procedures. The complaint may not

concern facts already ruled on by a court or currently before a court.

The complaint may be made by writing a simple *letter* to the Ombudsman in any of the 11 official languages of the Community and setting out the *grounds* with all the necessary documents and indicating the *address* and the *identity* of the complainant, or by using the *form* included (below).

The Ombudsman examines the complaint and tries to find a *friendly solution*. If this attempt to conciliation fails, he informs the institution concerned and may make draft *recommendations*. The institution must answer the Ombudsman within three months. The Ombudsman may also send a *report* to the European Parliament (and to the institution concerned) including recommendations. He informs the complainant of the outcome.

Address:

European Ombudsman
1, avenue du Président Robert Schuman
BP 403
F-67001 Strasbourg Cedex

Telephone:

(33) 88 17 23 13 The European Ombudsman, Mr Jacob Söderman
88 17 23 82 Secretary General, Mr Jean-Guy Giraud
88 17 23 98 Information Officer, Ms Ilta Helkama
88 17 23 83 Private Secretary of the Ombudsman, Ms Nathalie Christman

Fax:

(33) 88 17 90 62

5. Complaint to the European Commission (OJ C 119, 30.4.1999, p. 5)

30.4.1999

EN

Official Journal of the European Communities

C 119/5

Failure by a Member State to comply with Community law: standard form for complaints to be submitted to the European Commission

(1999/C 119/03)

COMPLAINT (?)

TO THE COMMISSION OF THE EUROPEAN COMMUNITIES CONCERNING FAILURE TO COMPLY WITH COMMUNITY LAW

1. Surname and forename of complainant:
2. Where appropriate, represented by:
3. Nationality:
4. Address or registered office (?):
5. Telephone/fax/e-mail address:
6. Field and place(s) of activity:
7. Member State or public body alleged by the complainant not to have complied with Community law:
8. Fullest possible account of facts giving rise to complaint:
9. As far as possible, specify the provisions of Community law (Treaties, Regulations, Directives, Decisions, etc.) which the complainant considers to have been infringed by the Member State concerned:

(?) You are not obliged to use this form. You may also submit a complaint by ordinary letter, but it is in your interest to include as much relevant information as possible. You can send this form by ordinary mail to the following address:
Commission of the European Communities
(Attn: Secretary-General)
Rue de la Loi/Wetstraat 200
B-1049 Brussels.

You may also hand in the form at any of the Commission's representative offices in the Member States. The form is accessible on the European Union's Internet server:
<http://europa.eu.int/comm/sg/lexcomm>

To be admissible, your complaint has to relate to an infringement of Community law by a Member State.
(?) You should inform the Commission of any change of address and any event likely to affect the handling of your complaint.

C 119/6

EN

Official Journal of the European Communities

30.4.1999

10. Where appropriate, mention the involvement of a Community funding scheme (with references if possible) from which the Member State concerned benefits or stands to benefit, in relation to the facts giving rise to the complaint:
11. Details of any approaches already made to the Commission's services (if possible, attach copies of correspondence):
12. Details of any approaches already made to other Community bodies or authorities (e.g. European Parliament Committee on Petitions, European Ombudsman). If possible, give the reference assigned to the complainant's approach by the body concerned:
13. Approaches already made to national authorities, whether central, regional or local (if possible, attach copies of correspondence):
 - 13.1. Administrative approaches (e.g. complaint to the relevant national administrative authorities, whether central, regional or local, and/or to a national or regional ombudsman):
 - 13.2. Recourse to national courts or other procedures (e.g. arbitration or conciliation). (State whether there has already been a decision or award and attach a copy if appropriate):
14. Specify any documents or evidence which may be submitted in support of the complaint, including the national measures concerned (attach copies):
15. Confidentiality (tick one box) (!):
 - 'I authorise the Commission to disclose my identity in its contacts with the authorities of the Member State against which the complaint is made.'
 - 'I request the Commission not to disclose my identity in its contacts with the authorities of the Member State against which the complaint is made.'
16. Place, date and signature of complainant/representative:

(!) Please note that the disclosure of your identity by the Commission's services may, in some cases, be indispensable to the handling of the complaint.

(Explanatory note to appear on back of complaint form)

Each Member State is responsible for the implementation of Community law (adoption of implementing measures before a specified deadline, conformity and correct application) within its own legal system. Under the Treaties, the Commission of the European Communities is responsible for ensuring that Community law is correctly applied. Consequently, where a Member State fails to comply with Community law, the Commission has powers of its own (action for non-compliance) to try to bring the infringement to an end and, if necessary, may refer the case to the Court of Justice of the European Communities. The Commission takes whatever action it deems appropriate in response to either a complaint or indications of infringements which it detects itself.

Non-compliance means failure by a Member State to fulfil its obligations under Community law, whether by action or by omission. The term State is taken to mean the Member State which infringes Community law, irrespective of the authority - central, regional or local - to which the non-compliance is attributable.

Anyone may lodge a complaint with the Commission against a Member State about any measure (law, regulation or administrative action) or practice which they consider incompatible with a provision or a principle of Community law. Complainants do not have to demonstrate a formal interest in bringing proceedings. Neither do they have to prove that they are principally and directly concerned by the infringement complained of. To be admissible, a complaint has to relate to an infringement of Community law by a Member State. It should be borne in mind that the Commission's services may decide whether or not further action should be taken on a complaint in the light of the rules and priorities laid down by the Commission for opening and pursuing infringement procedures.

Anyone who considers a measure (law, regulation or administrative action) or administrative practice to be incompatible with Community law is invited, before or at the same time as lodging a complaint with the Commission, to seek redress from the national administrative or judicial authorities (including the national or regional ombudsman and/or arbitration and conciliation procedures available). The Commission advises the prior use of such national means of redress, whether administrative, judicial or other, before lodging a complaint with the Commission, because of the advantages they may offer for complainants.

By using the means of redress available at national level, complainants should, as a rule, be able to assert their rights more directly and more personally (e.g. a court order to an administrative body, repeal of a national decision and/or damages) than they would following an infringement procedure successfully brought by the Commission which may take some time. Indeed, before referring a case to the Court of Justice, the Commission is obliged to hold a series of contacts with the Member State concerned to try to terminate the infringement.

Furthermore, any finding of an infringement by the Court of Justice has no impact on the rights of the complainant, since it does not serve to resolve individual cases. It merely obliges the Member State to comply with Community law. More specifically, any individual claims for damages would have to be brought by complainants before the national courts.

The following administrative guarantees exist for the benefit of the complainant:

- (a) Once it has been registered with the Commission's Secretariat-General, any complaint found admissible will be assigned an official reference number. An acknowledgment bearing the reference number, which should be quoted in any correspondence, will immediately be sent to the complainant. However, the assignment of an official reference number to a complaint does not necessarily mean that an infringement procedure will be opened against the Member State in question.
- (b) Where the Commission's services make representations to the authorities of the Member State against which the complaint has been made, they will abide by the choice made by the complainant in Section 15 of this form.
- (c) The Commission will endeavour to take a decision on the substance (either to open infringement proceedings or to close the case) within twelve months of registration of the complaint with its Secretariat-General.
- (d) The complainant will be notified in advance by the relevant department if it plans to propose that the Commission close the case. The Commission's services will keep the complainant informed of the course of any infringement procedure.

6. Council Decision 2004/338/EC, Euratom of 22 March 2004 adopting the Council's Rules of Procedure (OJ L 106, 15.4.2004, p. 22) – Extracts

ANNEX V

PROVISIONS CONCERNING THE FORMS OF ACTS

A. Form of regulations:

1. Regulations adopted jointly by the European Parliament and the Council and Council regulations shall include:
 - (a) in their titles, "Regulation", followed by a serial number, the date of their adoption and an indication of their subject-matter;
 - (b) "The European Parliament and the Council of the European Union" or "The Council of the European Union", as appropriate;
 - (c) a reference to the provisions pursuant to which the regulation is adopted, preceded by "Having regard to";
 - (d) a citation containing a reference to proposals submitted and to opinions obtained and consultations held;
 - (e) a statement of the reasons on which the regulation is based, preceded by "Whereas"; the recitals being numbered;
 - (f) "have adopted this Regulation" or "has adopted this Regulation", as appropriate, followed by the enacting terms of the regulation.
2. Regulations shall be divided into Articles, if appropriate grouped into chapters and sections.
3. The final Article of a regulation shall fix the date of entry into force, where that date is before or after the 20th day following publication.
4. The final Article of a regulation shall be followed by:
 - (a) (i) "This Regulation shall be binding in its entirety and directly applicable in all Member States";
or
(ii) "This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community", in any cases in which an act is not applicable to, or in, all Member States (†);
 - (b) "Done at....", followed by the date on which the regulation was adopted;
and
 - (c) in the case of:

"For the European Parliament The President"	"For the Council The President"
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followed by the name of the President of the European Parliament and of the President-in-Office of the Council at the time when the regulation is adopted;
 - (ii) a Council regulation:

"For the Council The President"

followed by the name of the President-in-Office of the Council at the time when the regulation is adopted.

B. Forms of directives, decisions, recommendations and opinions (EC Treaty)

1. Directives and decisions adopted jointly by the European Parliament and the Council, and directives and decisions of the Council, shall include in their titles "Directive" or "Decision".
2. Recommendations and opinions issued by the Council shall include in their titles "Recommendation" or "Opinion".
3. The provisions relating to regulations set out in A above shall apply *mutatis mutandis*, subject to the relevant provisions of the EC Treaty, to directives and decisions.

(†) See statement (n) set out below.

(n) Concerning Annex IV, paragraph A.4(a)(ii):

"The Council would point out that, in the cases provided for in the Treaties where an act is not applicable to or in all Member States, it is necessary to make clear its territorial application in the reasons given for and content of the act concerned."

C. Forms of common strategies of the European Council, joint actions and common positions referred to in Article 12 of the Treaty on European Union. Common strategies, joint actions and common positions within the meaning of Article 12 of the Treaty on European Union shall bear one of the following headings, as appropriate:

- (a) "European Council Common Strategy", a serial number (year/number/CFSP), the date of adoption and the subject matter;
- (b) "Council Joint Action", a serial number (year/number/CFSP), the date of adoption and the subject matter;
- (c) "Council Common Position", a serial number (year/number/CFSP), the date of adoption and the subject matter.

D. Forms of common positions, framework decisions, decisions and conventions referred to in Article 34(2) of the Treaty on European Union

Common Positions, framework decisions, decisions and conventions within the meaning of Article 34(2) of the Treaty on European Union shall bear one of the following headings, as appropriate:

- (a) "Council Common Position", a serial number (year/number/JHA), the date of adoption and the subject matter;
- (b) "Council Framework Decision", a serial number (year/number/JHA), the date of adoption and the subject matter;
- (c) "Council Decision", a serial number (year/number/JHA), the date of adoption and the subject matter;
- (d) "Convention established by the Council in accordance with Article 34 of the Treaty on European Union" and the subject-matter.

Done at Brussels, 22 March 2004.

For the Council
The President
 B. COWEN

7. Council Regulation (EC) No 930/2004 of 1 May 2004 on temporary derogation measures relating to the drafting in Maltese of the acts of the institutions of the European Union (OJ L 169, 1.5.2004, p. 1)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 290 thereof,

Having regard to the Treaty on European Union, and in particular Articles 28 and 41 thereof,

Having regard to Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community(1) and to Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Atomic Energy Community(2), which two Regulations are hereinafter referred to as «Regulation No 1» ,

Having regard to the Council Rules of Procedure, and in particular Article 14(1) thereof,

Having regard to the request of 31 March 2004 by the Maltese Government,

Whereas:

(1) Following the accession of Malta to the European Union, and in accordance with Article 1 of Regulation No 1, Maltese is an official language and a working language of the institutions of the Union.

(2) Accordingly, regulations and other documents of general application are to be drafted also in Maltese, as provided for in Article 4 of Regulation No 1. The Official Journal of the European Union should also be published in Maltese, as provided for in Article 5 of that Regulation.

(3) It appears from contacts between the Maltese authorities and the European Union institutions that, due to the current situation regarding the recruitment of Maltese linguists and the resulting lack of qualified translators, it is not possible to guarantee the drafting in Maltese of all acts adopted by the institutions.

(4) This situation will prevail for some time, pending the implementation of transitional measures taken in close cooperation between the Maltese authorities and the European Union institutions to remedy the lack of qualified translators. In the meantime, this situation should not have a negative impact on the activities of the Union, slowing the work of its institutions.

(5) Article 8 of Regulation No 1 allows the Council, acting upon request of the Member State concerned, to decide on the use of languages as regards Member States which have more than one official language. According to the Constitution of Malta, Maltese and English are the official languages of Malta and every law is to be enacted in both the Maltese and English languages, the Maltese text prevailing in the case of conflict, unless provision is otherwise made.

(6) In the light of the situation referred to above and on request by the Maltese Government, it is appropriate to decide that, on an exceptional and transitional basis, the institutions of the

Union are not to be bound by the obligation concerning the drafting or translation of all acts, including judgments of the Court of Justice, in the Maltese language. However, it is appropriate that such derogation be partial and therefore to exclude from its scope regulations adopted jointly by the European Parliament and the Council.

(7) The status of Maltese as an official language and a working language of the institutions of the Union remains unaffected.

(8) At the end of the transitional period, all acts which at that time have not already been published in the Maltese language should also be published in that language,

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from Regulation No 1 and for a period of three years beginning on 1 May 2004, the institutions of the European Union shall not be bound by the obligation to draft all acts in Maltese and to publish them in that language in the Official Journal of the European Union.

This Article shall not apply to Regulations adopted jointly by the European Parliament and the Council.

Article 2

Not later than 30 months after its adoption, the Council shall review the operation of this Regulation and determine whether to extend it for a further period of one year.

Article 3

At the end of the transitional period, all acts which at that time have not already been published in the Maltese language shall also be published in that language.

Article 4

This Regulation shall enter into force on 1 May 2004.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1 May 2004.

For the Council

The President

B. Cowen

(1) OJ 17, 6.10.1958, p. 385/58. Regulation as last amended by the 2003 Act of Accession.

(2) OJ 17, 6.10.1958, p. 401/58. Regulation as last amended by the 2003 Act of Accession.

8. Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 255(2) thereof,

Having regard to the proposal from the Commission(1),

Acting in accordance with the procedure referred to in Article 251 of the Treaty(2),

Whereas:

(1) The second subparagraph of Article 1 of the Treaty on European Union enshrines the concept of openness, stating that the Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen.

(2) Openness enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system. Openness contributes to strengthening the principles of democracy and respect for fundamental rights as laid down in Article 6 of the EU Treaty and in the Charter of Fundamental Rights of the European Union.

(3) The conclusions of the European Council meetings held at Birmingham, Edinburgh and Copenhagen stressed the need to introduce greater transparency into the work of the Union institutions. This Regulation consolidates the initiatives that the institutions have already taken with a view to improving the transparency of the decision-making process.

(4) The purpose of this Regulation is to give the fullest possible effect to the right of public access to documents and to lay down the general principles and limits on such access in accordance with Article 255(2) of the EC Treaty.

(5) Since the question of access to documents is not covered by provisions of the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community, the European Parliament, the Council and the Commission should, in accordance with Declaration No 41 attached to the Final Act of the Treaty of Amsterdam, draw guidance from this Regulation as regards documents concerning the activities covered by those two Treaties.

(6) Wider access should be granted to documents in cases where the institutions are acting in their legislative capacity, including under delegated powers, while at the same time preserving the effectiveness of the institutions' decision-making process. Such documents should be made directly accessible to the greatest possible extent.

(7) In accordance with Articles 28(1) and 41(1) of the EU Treaty, the right of access also applies to documents relating to the common foreign and security policy and to police and judicial cooperation in criminal matters. Each institution should respect its security rules.

(8) In order to ensure the full application of this Regulation to all activities of the Union, all agencies established by the institutions should apply the principles laid down in this Regulation.

(9) On account of their highly sensitive content, certain documents should be given special treatment. Arrangements for informing the European Parliament of the content of such documents should be made through interinstitutional agreement.

(10) In order to bring about greater openness in the work of the institutions, access to documents should be granted by the European Parliament, the Council and the Commission not only to documents drawn up by the institutions, but also to documents received by them. In this context, it is recalled that Declaration No 35 attached to the Final Act of the Treaty of Amsterdam provides that a Member State may request the Commission or the Council not to communicate to third parties a document originating from that State without its prior agreement.

(11) In principle, all documents of the institutions should be accessible to the public. However, certain public and private interests should be protected by way of exceptions. The institutions should be entitled to protect their internal consultations and deliberations where necessary to safeguard their ability to carry out their tasks. In assessing the exceptions, the institutions should take account of the principles in Community legislation concerning the protection of personal data, in all areas of Union activities.

(12) All rules concerning access to documents of the institutions should be in conformity with this Regulation.

(13) In order to ensure that the right of access is fully respected, a two-stage administrative procedure should apply, with the additional possibility of court proceedings or complaints to the Ombudsman.

(14) Each institution should take the measures necessary to inform the public of the new provisions in force and to train its staff to assist citizens exercising their rights under this Regulation. In order to make it easier for citizens to exercise their rights, each institution should provide access to a register of documents.

(15) Even though it is neither the object nor the effect of this Regulation to amend national legislation on access to documents, it is nevertheless clear that, by virtue of the principle of loyal cooperation which governs relations between the institutions and the Member States, Member States should take care not to hamper the proper application of this Regulation and should respect the security rules of the institutions.

(16) This Regulation is without prejudice to existing rights of access to documents for Member States, judicial authorities or investigative bodies.

(17) In accordance with Article 255(3) of the EC Treaty, each institution lays down specific provisions regarding access to its documents in its rules of procedure. Council Decision 93/731/EC of 20 December 1993 on public access to Council documents(3), Commission Decision 94/90/ECSC, EC, Euratom of 8 February 1994 on public access to Commission documents(4), European Parliament Decision 97/632/EC, ECSC, Euratom of 10 July 1997 on public access to European Parliament documents(5), and the rules on confidentiality of Schengen documents should therefore, if necessary, be modified or be repealed,

HAVE ADOPTED THIS REGULATION:

Article 1 - Purpose

The purpose of this Regulation is:

- (a) to define the principles, conditions and limits on grounds of public or private interest governing the right of access to European Parliament, Council and Commission (hereinafter referred to as "the institutions") documents provided for in Article 255 of the EC Treaty in such a way as to ensure the widest possible access to documents,
- (b) to establish rules ensuring the easiest possible exercise of this right, and
- (c) to promote good administrative practice on access to documents.

Article 2 - Beneficiaries and scope

1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Regulation.
2. The institutions may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in a Member State.
3. This Regulation shall apply to all documents held by an institution, that is to say, documents drawn up or received by it and in its possession, in all areas of activity of the European Union.
4. Without prejudice to Articles 4 and 9, documents shall be made accessible to the public either following a written application or directly in electronic form or through a register. In particular, documents drawn up or received in the course of a legislative procedure shall be made directly accessible in accordance with Article 12.
5. Sensitive documents as defined in Article 9(1) shall be subject to special treatment in accordance with that Article.
6. This Regulation shall be without prejudice to rights of public access to documents held by the institutions which might follow from instruments of international law or acts of the institutions implementing them.

Article 3 - Definitions

For the purpose of this Regulation:

- (a) "document" shall mean any content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter relating to the policies, activities and decisions falling within the institution's sphere of responsibility;
- (b) "third party" shall mean any natural or legal person, or any entity outside the institution concerned, including the Member States, other Community or non-Community institutions and bodies and third countries.

Article 4 - Exceptions

1. The institutions shall refuse access to a document where disclosure would undermine the protection of:

(a) the public interest as regards:

- public security,
- defence and military matters,
- international relations,
- the financial, monetary or economic policy of the Community or a Member State;

(b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.

2. The institutions shall refuse access to a document where disclosure would undermine the protection of:

- commercial interests of a natural or legal person, including intellectual property,
- court proceedings and legal advice,
- the purpose of inspections, investigations and audits,

unless there is an overriding public interest in disclosure.

3. Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

4. As regards third-party documents, the institution shall consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed.

5. A Member State may request the institution not to disclose a document originating from that Member State without its prior agreement.

6. If only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released.

7. The exceptions as laid down in paragraphs 1 to 3 shall only apply for the period during which protection is justified on the basis of the content of the document. The exceptions may apply for a maximum period of 30 years. In the case of documents covered by the exceptions relating to privacy or commercial interests and in the case of sensitive documents, the exceptions may, if necessary, continue to apply after this period.

Article 5 - Documents in the Member States

Where a Member State receives a request for a document in its possession, originating from an institution, unless it is clear that the document shall or shall not be disclosed, the Member State shall consult with the institution concerned in order to take a decision that does not jeopardise the attainment of the objectives of this Regulation.

The Member State may instead refer the request to the institution.

Article 6 - Applications

1. Applications for access to a document shall be made in any written form, including electronic form, in one of the languages referred to in Article 314 of the EC Treaty and in a sufficiently precise manner to enable the institution to identify the document. The applicant is not obliged to state reasons for the application.

2. If an application is not sufficiently precise, the institution shall ask the applicant to clarify the application and shall assist the applicant in doing so, for example, by providing information on the use of the public registers of documents.

3. In the event of an application relating to a very long document or to a very large number of documents, the institution concerned may confer with the applicant informally, with a view to finding a fair solution.

4. The institutions shall provide information and assistance to citizens on how and where applications for access to documents can be made.

Article 7 - Processing of initial applications

1. An application for access to a document shall be handled promptly. An acknowledgement of receipt shall be sent to the applicant. Within 15 working days from registration of the application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal and inform the applicant of his or her right to make a confirmatory application in accordance with paragraph 2 of this Article.

2. In the event of a total or partial refusal, the applicant may, within 15 working days of receiving the institution's reply, make a confirmatory application asking the institution to reconsider its position.

3. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time-limit provided for in paragraph 1 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.

4. Failure by the institution to reply within the prescribed time-limit shall entitle the applicant to make a confirmatory application.

Article 8 - Processing of confirmatory applications

1. A confirmatory application shall be handled promptly. Within 15 working days from registration of such an application, the institution shall either grant access to the document requested and provide access in accordance with Article 10 within that period or, in a written reply, state the reasons for the total or partial refusal. In the event of a total or partial refusal, the institution shall inform the applicant of the remedies open to him or her, namely instituting court proceedings against the institution and/or making a complaint to the Ombudsman, under the conditions laid down in Articles 230 and 195 of the EC Treaty, respectively.

2. In exceptional cases, for example in the event of an application relating to a very long document or to a very large number of documents, the time limit provided for in paragraph 1 may be extended by 15 working days, provided that the applicant is notified in advance and that detailed reasons are given.

3. Failure by the institution to reply within the prescribed time limit shall be considered as a negative reply and entitle the applicant to institute court proceedings against the institution and/or make a complaint to the Ombudsman, under the relevant provisions of the EC Treaty.

Article 9 - Treatment of sensitive documents

1. Sensitive documents are documents originating from the institutions or the agencies established by them, from Member States, third countries or International Organisations, classified as "TRÈS SECRET/TOP SECRET", "SECRET" or "CONFIDENTIEL" in accordance with the rules of the institution concerned, which protect essential interests of the European Union or of one or more of its Member States in the areas covered by Article 4(1)(a), notably public security, defence and military matters.

2. Applications for access to sensitive documents under the procedures laid down in Articles 7 and 8 shall be handled only by those persons who have a right to acquaint themselves with those documents. These persons shall also, without prejudice to Article 11(2), assess which references to sensitive documents could be made in the public register.

3. Sensitive documents shall be recorded in the register or released only with the consent of the originator.

4. An institution which decides to refuse access to a sensitive document shall give the reasons for its decision in a manner which does not harm the interests protected in Article 4.

5. Member States shall take appropriate measures to ensure that when handling applications for sensitive documents the principles in this Article and Article 4 are respected.

6. The rules of the institutions concerning sensitive documents shall be made public.

7. The Commission and the Council shall inform the European Parliament regarding sensitive documents in accordance with arrangements agreed between the institutions.

Article 10 - Access following an application

1. The applicant shall have access to documents either by consulting them on the spot or by receiving a copy, including, where available, an electronic copy, according to the applicant's preference. The cost of producing and sending copies may be charged to the applicant. This charge shall not exceed the real cost of producing and sending the copies. Consultation on the spot, copies of less than 20 A4 pages and direct access in electronic form or through the register shall be free of charge.

2. If a document has already been released by the institution concerned and is easily accessible to the applicant, the institution may fulfil its obligation of granting access to documents by informing the applicant how to obtain the requested document.

3. Documents shall be supplied in an existing version and format (including electronically or in an alternative format such as Braille, large print or tape) with full regard to the applicant's preference.

Article 11 - Registers

1. To make citizens' rights under this Regulation effective, each institution shall provide public access to a register of documents. Access to the register should be provided in electronic form. References to documents shall be recorded in the register without delay.

2. For each document the register shall contain a reference number (including, where applicable, the interinstitutional reference), the subject matter and/or a short description of the content of the document and the

date on which it was received or drawn up and recorded in the register. References shall be made in a manner which does not undermine protection of the interests in Article 4.

3. The institutions shall immediately take the measures necessary to establish a register which shall be operational by 3 June 2002.

Article 12 - Direct access in electronic form or through a register

1. The institutions shall as far as possible make documents directly accessible to the public in electronic form or through a register in accordance with the rules of the institution concerned.

2. In particular, legislative documents, that is to say, documents drawn up or received in the course of procedures for the adoption of acts which are legally binding in or for the Member States, should, subject to Articles 4 and 9, be made directly accessible.

3. Where possible, other documents, notably documents relating to the development of policy or strategy, should be made directly accessible.

4. Where direct access is not given through the register, the register shall as far as possible indicate where the document is located.

Article 13 - Publication in the Official Journal

1. In addition to the acts referred to in Article 254(1) and (2) of the EC Treaty and the first paragraph of Article 163 of the Euratom Treaty, the following documents shall, subject to Articles 4 and 9 of this Regulation, be published in the Official Journal:

(a) Commission proposals;

(b) common positions adopted by the Council in accordance with the procedures referred to in Articles 251 and 252 of the EC Treaty and the reasons underlying those common positions, as well as the European Parliament's positions in these procedures;

(c) framework decisions and decisions referred to in Article 34(2) of the EU Treaty;

(d) conventions established by the Council in accordance with Article 34(2) of the EU Treaty;

(e) conventions signed between Member States on the basis of Article 293 of the EC Treaty;

(f) international agreements concluded by the Community or in accordance with Article 24 of the EU Treaty.

2. As far as possible, the following documents shall be published in the Official Journal:

(a) initiatives presented to the Council by a Member State pursuant to Article 67(1) of the EC Treaty or pursuant to Article 34(2) of the EU Treaty;

(b) common positions referred to in Article 34(2) of the EU Treaty;

(c) directives other than those referred to in Article 254(1) and (2) of the EC Treaty, decisions other than those referred to in Article 254(1) of the EC Treaty, recommendations and opinions.

3. Each institution may in its rules of procedure establish which further documents shall be published in the Official Journal.

Article 14 - Information

1. Each institution shall take the requisite measures to inform the public of the rights they enjoy under this Regulation.

2. The Member States shall cooperate with the institutions in providing information to the citizens.

Article 15 - Administrative practice in the institutions

1. The institutions shall develop good administrative practices in order to facilitate the exercise of the right of access guaranteed by this Regulation.

2. The institutions shall establish an interinstitutional committee to examine best practice, address possible conflicts and discuss future developments on public access to documents.

Article 16 - Reproduction of documents

This Regulation shall be without prejudice to any existing rules on copyright which may limit a third party's right to reproduce or exploit released documents.

Article 17 - Reports

1. Each institution shall publish annually a report for the preceding year including the number of cases in which the institution refused to grant access to documents, the reasons for such refusals and the number of sensitive documents not recorded in the register.

2. At the latest by 31 January 2004, the Commission shall publish a report on the implementation of the principles of this Regulation and shall make recommendations, including, if appropriate, proposals for the revision of this Regulation and an action programme of measures to be taken by the institutions.

Article 18 - Application measures

1. Each institution shall adapt its rules of procedure to the provisions of this Regulation. The adaptations shall take effect from 3 December 2001.

2. Within six months of the entry into force of this Regulation, the Commission shall examine the conformity of Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community(6) with this Regulation in order to ensure the preservation and archiving of documents to the fullest extent possible.

3. Within six months of the entry into force of this Regulation, the Commission shall examine the conformity of the existing rules on access to documents with this Regulation.

Article 19 - Entry into force

This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Communities.

It shall be applicable from 3 December 2001.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 30 May 2001.

For the European Parliament - The President - N. Fontaine

For the Council - The President - B. Lejon

(1) OJ C 177 E, 27.6.2000, p. 70.

(2) Opinion of the European Parliament of 3 May 2001 (not yet published in the Official Journal) and Council Decision of 28 May 2001.

(3) OJ L 340, 31.12.1993, p. 43. Decision as last amended by Decision 2000/527/EC (OJ L 212, 23.8.2000, p. 9).

(4) OJ L 46, 18.2.1994, p. 58. Decision as amended by Decision 96/567/EC, ECSC, Euratom (OJ L 247, 28.9.1996, p. 45).

(5) OJ L 263, 25.9.1997, p. 27.

(6) OJ L 43, 15.2.1983, p. 1.

9. Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (OJ L 39, 14.2.1976, p. 40)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas the Council, in its resolution of 21 January 1974 concerning a social action programme (3), included among the priorities action for the purpose of achieving equality between men and women as regards access to employment and vocational training and promotion and as regards working conditions, including pay;

Whereas, with regard to pay, the Council adopted on 10 February 1975 Directive 75/117/EEC on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women (4);

Whereas Community action to achieve the principle of equal treatment for men and women in respect of access to employment and vocational training and promotion and in respect of other working conditions also appears to be necessary ; whereas, equal treatment for male and female workers constitutes one of the objectives of the Community, in so far as the harmonization of living and working conditions while maintaining their improvement are inter alia to be furthered ; whereas the Treaty does not confer the necessary specific powers for this purpose;

Whereas the definition and progressive implementation of the principle of equal treatment in matters of social security should be ensured by means of subsequent instruments,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. The purpose of this Directive is to put into effect in the Member States the principle of equal treatment for men and women as regards access to employment, including promotion, and to vocational training and as regards working conditions and, on the conditions referred to in paragraph 2, social security. This principle is hereinafter referred to as "the principle of equal treatment."

2. With a view to ensuring the progressive implementation of the principle of equal treatment in matters of social security, the Council, acting on a proposal from the Commission, will adopt provisions defining its substance, its scope and the arrangements for its application.

Article 2

1. For the purposes of the following provisions, the principle of equal treatment shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status.

2. This Directive shall be without prejudice to the right of Member States to exclude from its field of application those occupational activities and, where appropriate, the training leading thereto, for which, by reason of their nature or the context in which they are carried out, the sex of the worker constitutes a determining factor.

3. This Directive shall be without prejudice to provisions concerning the protection of women, particularly as regards pregnancy and maternity.

4. This Directive shall be without prejudice to measures to promote equal opportunity for men and women, in particular by removing existing inequalities which affect women's opportunities in the areas referred to in Article 1 (1). (1)OJ No C 111, 20.5.1975, p. 14. (2)OJ No C 286, 15.12.1975, p. 8. (3)OJ No C 13, 12.2.1974, p. 1. (4)OJ No L 45, 19.2.1975, p. 19.

Article 3

1. Application of the principle of equal treatment means that there shall be no discrimination whatsoever on grounds of sex in the conditions, including selection criteria, for access to all jobs or posts, whatever the sector or branch of activity, and to all levels of the occupational hierarchy.

2. To this end, Member States shall take the measures necessary to ensure that: (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment shall be abolished;

(b) any provisions contrary to the principle of equal treatment which are included in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions shall be, or may be declared, null and void or may be amended;

(c) those laws, regulations and administrative provisions contrary to the principle of equal treatment when the concern for protection which originally inspired them is no longer well founded shall be revised ; and that where similar provisions are included in collective agreements labour and management shall be requested to undertake the desired revision.

Article 4

Application of the principle of equal treatment with regard to access to all types and to all levels, of vocational guidance, vocational training, advanced vocational training and retraining, means that Member States shall take all necessary measures to ensure that: (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment shall be abolished;

(b) any provisions contrary to the principle of equal treatment which are included in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions shall be, or may be declared, null and void or may be amended;

(c) without prejudice to the freedom granted in certain Member States to certain private training establishments, vocational guidance, vocational training, advanced vocational training and retraining shall be accessible on the basis of the same criteria and at the same levels without any discrimination on grounds of sex.

Article 5

1. Application of the principle of equal treatment with regard to working conditions, including the conditions governing dismissal, means that men and women shall be guaranteed the same conditions without discrimination on grounds of sex.

2. To this end, Member States shall take the measures necessary to ensure that: (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment shall be abolished;

(b) any provisions contrary to the principle of equal treatment which are included in collective agreements, individual contracts of employment, internal rules of undertakings or in rules governing the independent occupations and professions shall be, or may be declared, null and void or may be amended;

(c) those laws, regulations and administrative provisions contrary to the principle of equal treatment when the concern for protection which originally inspired them is no longer well founded shall be revised ; and that where similar provisions are included in collective agreements labour and management shall be requested to undertake the desired revision.

Article 6

Member States shall introduce into their national legal systems such measures as are necessary to enable all persons who consider themselves wronged by failure to apply to them the principle of equal treatment within the meaning of Articles 3, 4 and 5 to pursue their claims by judicial process after possible recourse to other competent authorities.

Article 7

Member States shall take the necessary measures to protect employees against dismissal by the employer as a reaction to a complaint within the undertaking or to any legal proceedings aimed at enforcing compliance with the principle of equal treatment.

Article 8

Member States shall take care that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of employees by all appropriate means, for example at their place of employment.

Article 9

1. Member States shall put into force the laws, regulations and administrative provisions necessary in order to comply with this Directive within 30 months of its notification and shall immediately inform the Commission thereof.

However, as regards the first part of Article 3 (2) (c) and the first part of Article 5 (2) (c), Member States shall carry out a first examination and if necessary a first revision of the laws, regulations and administrative provisions referred to therein within four years of notification of this Directive.

2. Member States shall periodically assess the occupational activities referred to in Article 2 (2) in order to decide, in the light of social developments, whether there is justification for maintaining the exclusions concerned. They shall notify the Commission of the results of this assessment.

3. Member States shall also communicate to the Commission the texts of laws, regulations and administrative provisions which they adopt in the field covered by this Directive.

Article 10

Within two years following expiry of the 30-month period laid down in the first subparagraph of Article 9 (1), Member States shall forward all necessary information to the Commission to enable it to draw up a report on the application of this Directive for submission to the Council.

Article 11

This Directive is addressed to the Member States.

Done at Brussels, 9 February 1976.

For the Council

The President

G. THORN

10. Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ L 180, 19.7.2000, p. 22)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 13 thereof,

Having regard to the proposal from the Commission(1),

Having regard to the opinion of the European Parliament(2),

Having regard to the opinion of the Economic and Social Committee(3),

Having regard to the opinion of the Committee of the Regions(4),

Whereas:

(1) The Treaty on European Union marks a new stage in the process of creating an ever closer union among the peoples of Europe.

(2) In accordance with Article 6 of the Treaty on European Union, the European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States, and should respect fundamental rights as guaranteed by the European Convention for the protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, as general principles of Community Law.

(3) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination and the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights and by the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which all Member States are signatories.

(4) It is important to respect such fundamental rights and freedoms, including the right to freedom of association. It is also important, in the context of the access to and provision of goods and services, to respect the protection of private and family life and transactions carried out in this context.

(5) The European Parliament has adopted a number of Resolutions on the fight against racism in the European Union.

(6) The European Union rejects theories which attempt to determine the existence of separate human races. The use of the term "racial origin" in this Directive does not imply an acceptance of such theories.

(7) The European Council in Tampere, on 15 and 16 October 1999, invited the Commission to come forward as soon as possible with proposals implementing Article 13 of the EC Treaty as regards the fight against racism and xenophobia.

(8) The Employment Guidelines 2000 agreed by the European Council in Helsinki, on 10 and 11 December 1999, stress the need to foster conditions for a socially inclusive labour market by formulating a coherent set of policies aimed at combating discrimination against groups such as ethnic minorities.

(9) Discrimination based on racial or ethnic origin may undermine the achievement of the objectives of the EC Treaty, in particular the attainment of a high level of employment and of social protection, the raising of the standard of living and quality of life, economic and social cohesion and solidarity. It may also undermine the objective of developing the European Union as an area of freedom, security and justice.

(10) The Commission presented a communication on racism, xenophobia and anti-Semitism in December 1995.

(11) The Council adopted on 15 July 1996 Joint Action (96/443/JHA) concerning action to combat racism and xenophobia(5) under which the Member States undertake to ensure effective judicial cooperation in respect of offences based on racist or xenophobic behaviour.

(12) To ensure the development of democratic and tolerant societies which allow the participation of all persons irrespective of racial or ethnic origin, specific action in the field of discrimination based on racial or ethnic origin should go beyond access to employed and self-employed activities and cover areas such as education, social protection including social security and healthcare, social advantages and access to and supply of goods and services.

(13) To this end, any direct or indirect discrimination based on racial or ethnic origin as regards the areas covered by this Directive should be prohibited throughout the Community. This prohibition of discrimination should also apply to nationals of third countries, but does not cover differences of treatment based on nationality and is without prejudice to provisions governing the entry and residence of third-country nationals and their access to employment and to occupation.

(14) In implementing the principle of equal treatment irrespective of racial or ethnic origin, the Community should, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and to promote equality between men and women, especially since women are often the victims of multiple discrimination.

(15) The appreciation of the facts from which it may be inferred that there has been direct or indirect discrimination is a matter for national judicial or other competent bodies, in accordance with rules of national law or practice. Such rules may provide in particular for indirect discrimination to be established by any means including on the basis of statistical evidence.

(16) It is important to protect all natural persons against discrimination on grounds of racial or ethnic origin. Member States should also provide, where appropriate and in accordance with their national traditions and practice, protection for legal persons where they suffer discrimination on grounds of the racial or ethnic origin of their members.

(17) The prohibition of discrimination should be without prejudice to the maintenance or adoption of measures intended to prevent or compensate for disadvantages suffered by a group of persons of a particular racial or ethnic origin, and such measures may permit organisations of persons of a particular racial or ethnic origin where their main object is the promotion of the special needs of those persons.

(18) In very limited circumstances, a difference of treatment may be justified where a characteristic related to racial or ethnic origin constitutes a genuine and determining occupational requirement, when the objective is legitimate and the requirement is proportionate. Such circumstances should be included in the information provided by the Member States to the Commission.

(19) Persons who have been subject to discrimination based on racial and ethnic origin should have adequate means of legal protection. To provide a more effective level of protection, associations or legal entities should also be empowered to engage, as the Member States so determine, either on behalf or in support of any victim, in proceedings, without prejudice to national rules of procedure concerning representation and defence before the courts.

(20) The effective implementation of the principle of equality requires adequate judicial protection against victimisation.

(21) The rules on the burden of proof must be adapted when there is a prima facie case of discrimination and, for the principle of equal treatment to be applied effectively, the burden of proof must shift back to the respondent when evidence of such discrimination is brought.

(22) Member States need not apply the rules on the burden of proof to proceedings in which it is for the court or other competent body to investigate the facts of the case. The procedures thus referred to are those in which the plaintiff is not required to prove the facts, which it is for the court or competent body to investigate.

(23) Member States should promote dialogue between the social partners and with non-governmental organisations to address different forms of discrimination and to combat them.

(24) Protection against discrimination based on racial or ethnic origin would itself be strengthened by the existence of a body or bodies in each Member State, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims.

(25) This Directive lays down minimum requirements, thus giving the Member States the option of introducing or maintaining more favourable provisions. The implementation of this Directive should not serve to justify any regression in relation to the situation which already prevails in each Member State.

(26) Member States should provide for effective, proportionate and dissuasive sanctions in case of breaches of the obligations under this Directive.

(27) The Member States may entrust management and labour, at their joint request, with the implementation of this Directive as regards provisions falling within the scope of collective agreements, provided that the Member States take all the necessary steps to ensure that they can at all times guarantee the results imposed by this Directive.

(28) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the EC Treaty, the objective of this Directive, namely ensuring a common high level of protection against discrimination in all the Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and impact of the proposed action, be better achieved by the Community. This Directive does not go beyond what is necessary in order to achieve those objectives,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I - GENERAL PROVISIONS

Article 1 - Purpose

The purpose of this Directive is to lay down a framework for combating discrimination on the grounds of racial or ethnic origin, with a view to putting into effect in the Member States the principle of equal treatment.

Article 2 - Concept of discrimination

1. For the purposes of this Directive, the principle of equal treatment shall mean that there shall be no direct or indirect discrimination based on racial or ethnic origin.

2. For the purposes of paragraph 1:

(a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin;

(b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

3. Harassment shall be deemed to be discrimination within the meaning of paragraph 1, when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. In this context, the concept of harassment may be defined in accordance with the national laws and practice of the Member States.

4. An instruction to discriminate against persons on grounds of racial or ethnic origin shall be deemed to be discrimination within the meaning of paragraph 1.

Article 3 - Scope

1. Within the limits of the powers conferred upon the Community, this Directive shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:

(a) conditions for access to employment, to self-employment and to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion;

(b) access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience;

(c) employment and working conditions, including dismissals and pay;

(d) membership of and involvement in an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations;

(e) social protection, including social security and healthcare;

(f) social advantages;

(g) education;

(h) access to and supply of goods and services which are available to the public, including housing.

2. This Directive does not cover difference of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons on the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.

Article 4 - Genuine and determining occupational requirements

Notwithstanding Article 2(1) and (2), Member States may provide that a difference of treatment which is based on a characteristic related to racial or ethnic origin shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate.

Article 5 - Positive action

With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to racial or ethnic origin.

Article 6 - Minimum requirements

1. Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment than those laid down in this Directive.

2. The implementation of this Directive shall under no circumstances constitute grounds for a reduction in the level of protection against discrimination already afforded by Member States in the fields covered by this Directive.

CHAPTER II - REMEDIES AND ENFORCEMENT

Article 7 - Defence of rights

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.

2. Member States shall ensure that associations, organisations or other legal entities, which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.

3. Paragraphs 1 and 2 are without prejudice to national rules relating to time limits for bringing actions as regards the principle of equality of treatment.

Article 8 - Burden of proof

1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.

2. Paragraph 1 shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.

3. Paragraph 1 shall not apply to criminal procedures.

4. Paragraphs 1, 2 and 3 shall also apply to any proceedings brought in accordance with Article 7(2).

5. Member States need not apply paragraph 1 to proceedings in which it is for the court or competent body to investigate the facts of the case.

Article 9 - Victimisation

Member States shall introduce into their national legal systems such measures as are necessary to protect individuals from any adverse treatment or adverse consequence as a reaction to a complaint or to proceedings aimed at enforcing compliance with the principle of equal treatment.

Article 10 - Dissemination of information

Member States shall take care that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of the persons concerned by all appropriate means throughout their territory.

Article 11 - Social dialogue

1. Member States shall, in accordance with national traditions and practice, take adequate measures to promote the social dialogue between the two sides of industry with a view to fostering equal treatment, including through the monitoring of workplace practices, collective agreements, codes of conduct, research or exchange of experiences and good practices.

2. Where consistent with national traditions and practice, Member States shall encourage the two sides of the industry without prejudice to their autonomy to conclude, at the appropriate level, agreements laying down anti-discrimination rules in the fields referred to in Article 3 which fall within the scope of collective bargaining. These agreements shall respect the minimum requirements laid down by this Directive and the relevant national implementing measures.

Article 12 - Dialogue with non-governmental organisations

Member States shall encourage dialogue with appropriate non-governmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of racial and ethnic origin with a view to promoting the principle of equal treatment.

CHAPTER III - BODIES FOR THE PROMOTION OF EQUAL TREATMENT

Article 13

1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights.

2. Member States shall ensure that the competences of these bodies include:

- without prejudice to the right of victims and of associations, organisations or other legal entities referred to in Article 7(2), providing independent assistance to victims of discrimination in pursuing their complaints about discrimination,
- conducting independent surveys concerning discrimination,
- publishing independent reports and making recommendations on any issue relating to such discrimination.

CHAPTER IV - FINAL PROVISIONS

Article 14 - Compliance

Member States shall take the necessary measures to ensure that:

- (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished;
- (b) any provisions contrary to the principle of equal treatment which are included in individual or collective contracts or agreements, internal rules of undertakings, rules governing profit-making or non-profit-making associations, and rules governing the independent professions and workers' and employers' organisations, are or may be declared, null and void or are amended.

Article 15 - Sanctions

Member States shall lay down the rules on sanctions applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are applied. The sanctions, which may comprise the payment of compensation to the victim, must be effective, proportionate and dissuasive. The Member States shall notify those provisions to the Commission by 19 July 2003 at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 16 - Implementation

Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive by 19 July 2003 or may entrust management and labour, at their joint request, with the implementation of this Directive as regards provisions falling within the scope of collective agreements. In such cases, Member States shall ensure that by 19 July 2003, management and labour introduce the necessary measures by agreement, Member States being required to take any necessary measures to enable them at any time to be in a position to guarantee the results imposed by this Directive. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

Article 17 - Report

1. Member States shall communicate to the Commission by 19 July 2005, and every five years thereafter, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

2. The Commission's report shall take into account, as appropriate, the views of the European Monitoring Centre on Racism and Xenophobia, as well as the viewpoints of the social partners and relevant non-governmental organisations. In accordance with the principle of gender mainstreaming, this report shall, inter alia, provide an assessment of the impact of the measures taken on women and men. In the light of the information received, this report shall include, if necessary, proposals to revise and update this Directive.

Article 18 - Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Article 19 - Addressees

This Directive is addressed to the Member States.

Done at Luxembourg, 29 June 2000.

For the Council

The President

M. Arcanjo

- (1) Not yet published in the Official Journal.
- (2) Opinion delivered on 18.5.2000 (not yet published in the Official Journal).
- (3) Opinion delivered on 12.4.2000 (not yet published in the Official Journal).
- (4) Opinion delivered on 31.5.2000 (not yet published in the Official Journal).
- (5) OJ L 185, 24.7.1996, p. 5.

11. Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism (OJ L 164, 22.6.2002, p. 3)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Union, and in particular Article 29, Article 31(e) and Article 34(2)(b) thereof,

Having regard to the proposal from the Commission(1),

Having regard to the opinion of the European Parliament(2),

Whereas:

(1) The European Union is founded on the universal values of human dignity, liberty, equality and solidarity, respect for human rights and fundamental freedoms. It is based on the principle of democracy and the principle of the rule of law, principles which are common to the Member States.

(2) Terrorism constitutes one of the most serious violations of those principles. The La Gomera Declaration adopted at the informal Council meeting on 14 October 1995 affirmed that terrorism constitutes a threat to democracy, to the free exercise of human rights and to economic and social development.

(3) All or some Member States are party to a number of conventions relating to terrorism. The Council of Europe Convention of 27 January 1977 on the Suppression of Terrorism does not regard terrorist offences as political offences or as offences connected with political offences or as offences inspired by political motives. The United Nations has adopted the Convention for the suppression of terrorist bombings of 15 December 1997 and the Convention for the suppression of financing terrorism of 9 December 1999. A draft global Convention against terrorism is currently being negotiated within the United Nations.

(4) At European Union level, on 3 December 1998 the Council adopted the Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice(3). Account should also be taken of the Council Conclusions of 20 September 2001 and of the Extraordinary European Council plan of action to combat terrorism of 21 September 2001. Terrorism was referred to in the conclusions of the Tampere European Council of 15 and 16 October 1999, and of the Santa Maria da Feira European Council of 19 and 20 June 2000. It was also mentioned in the Commission communication to the Council and the European Parliament on the biannual update of the scoreboard to review progress on the creation of an area of "freedom, security and justice" in the European Union (second half of 2000). Furthermore, on 5 September 2001 the European Parliament adopted a recommendation on the role of the European Union in combating terrorism. It should, moreover, be recalled that on 30 July 1996 twenty-five measures to fight against terrorism were advocated by the leading industrialised countries (G7) and Russia meeting in Paris.

(5) The European Union has adopted numerous specific measures having an impact on terrorism and organised crime, such as the Council Decision of 3 December 1998 instructing Europol to deal with crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property(4); Council Joint Action 96/610/JHA of 15 October 1996 concerning the creation and maintenance of a Directory of specialised counter-terrorist competences, skills and expertise to facilitate counter-terrorist cooperation between the Member States of the European Union(5); Council Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network(6), with responsibilities in terrorist offences, in particular Article 2; Council Joint Action 98/733/JHA of 21 December 1998 on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union(7); and the Council Recommendation of 9 December 1999 on cooperation in combating the financing of terrorist groups(8).

(6) The definition of terrorist offences should be approximated in all Member States, including those offences relating to terrorist groups. Furthermore, penalties and sanctions should be provided for natural and legal persons having committed or being liable for such offences, which reflect the seriousness of such offences.

(7) Jurisdictional rules should be established to ensure that the terrorist offence may be effectively prosecuted.

(8) Victims of terrorist offences are vulnerable, and therefore specific measures are necessary with regard to them.

(9) Given that the objectives of the proposed action cannot be sufficiently achieved by the Member States unilaterally, and can therefore, because of the need for reciprocity, be better achieved at the level of the Union, the Union may adopt measures, in accordance with the principle of subsidiarity. In accordance with the principle of proportionality, this Framework Decision does not go beyond what is necessary in order to achieve those objectives.

(10) This Framework Decision respects fundamental rights as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they emerge from the constitutional traditions common to the Member States as principles of Community law. The Union observes the principles recognised by Article 6(2) of the Treaty on European Union and reflected in the Charter of Fundamental Rights of the European Union, notably Chapter VI thereof. Nothing in this Framework Decision may be interpreted as being intended to reduce or restrict fundamental rights or freedoms such as the right to strike, freedom of assembly, of association or of expression, including the right of everyone to form and to join trade unions with others for the protection of his or her interests and the related right to demonstrate.

(11) Actions by armed forces during periods of armed conflict, which are governed by international humanitarian law within the meaning of these terms under that law, and, inasmuch as they are governed by other rules of international law, actions by the armed forces of a State in the exercise of their official duties are not governed by this Framework Decision,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1 - Terrorist offences and fundamental rights and principles

1. Each Member State shall take the necessary measures to ensure that the intentional acts referred to below in points (a) to (i), as defined as offences under national law, which, given their nature or context, may seriously damage a country or an international organisation where committed with the aim of:

- seriously intimidating a population, or
- unduly compelling a Government or international organisation to perform or abstain from performing any act, or

- seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation,

shall be deemed to be terrorist offences:

(a) attacks upon a person's life which may cause death;

(b) attacks upon the physical integrity of a person;

(c) kidnapping or hostage taking;

(d) causing extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property likely to endanger human life or result in major economic loss;

(e) seizure of aircraft, ships or other means of public or goods transport;

(f) manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons, as well as research into, and development of, biological and chemical weapons;

(g) release of dangerous substances, or causing fires, floods or explosions the effect of which is to endanger human life;

(h) interfering with or disrupting the supply of water, power or any other fundamental natural resource the effect of which is to endanger human life;

(i) threatening to commit any of the acts listed in (a) to (h).

2. This Framework Decision shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles as enshrined in Article 6 of the Treaty on European Union.

Article 2 - Offences relating to a terrorist group

1. For the purposes of this Framework Decision, "terrorist group" shall mean: a structured group of more than two persons, established over a period of time and acting in concert to commit terrorist offences. "Structured group" shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

2. Each Member State shall take the necessary measures to ensure that the following intentional acts are punishable:

(a) directing a terrorist group;

(b) participating in the activities of a terrorist group, including by supplying information or material resources, or by funding its activities in any way, with knowledge of the fact that such participation will contribute to the criminal activities of the terrorist group.

Article 3 - Offences linked to terrorist activities

Each Member State shall take the necessary measures to ensure that terrorist-linked offences include the following acts:

(a) aggravated theft with a view to committing one of the acts listed in Article 1(1);

(b) extortion with a view to the perpetration of one of the acts listed in Article 1(1);

(c) drawing up false administrative documents with a view to committing one of the acts listed in Article 1(1)(a) to (h) and Article 2(2)(b).

Article 4 - Inciting, aiding or abetting, and attempting

1. Each Member State shall take the necessary measures to ensure that inciting or aiding or abetting an offence referred to in Article 1(1), Articles 2 or 3 is made punishable.

2. Each Member State shall take the necessary measures to ensure that attempting to commit an offence referred to in Article 1(1) and Article 3, with the exception of possession as provided for in Article 1(1)(f) and the offence referred to in Article 1(1)(i), is made punishable.

Article 5 - Penalties

1. Each Member State shall take the necessary measures to ensure that the offences referred to in Articles 1 to 4 are punishable by effective, proportionate and dissuasive criminal penalties, which may entail extradition.

2. Each Member State shall take the necessary measures to ensure that the terrorist offences referred to in Article 1(1) and offences referred to in Article 4, inasmuch as they relate to terrorist offences, are punishable by custodial sentences heavier than those imposable under national law for such offences in the absence of the special intent required pursuant to Article 1(1), save where the sentences imposable are already the maximum possible sentences under national law.

3. Each Member State shall take the necessary measures to ensure that offences listed in Article 2 are punishable by custodial sentences, with a maximum sentence of not less than fifteen years for the offence referred to in Article 2(2)(a), and for the offences listed in Article 2(2)(b) a maximum sentence of not less than eight years. In so far as the offence referred to in Article 2(2)(a) refers only to the act in Article 1(1)(i), the maximum sentence shall not be less than eight years.

Article 6 - Particular circumstances

Each Member State may take the necessary measures to ensure that the penalties referred to in Article 5 may be reduced if the offender:

(a) renounces terrorist activity, and

(b) provides the administrative or judicial authorities with information which they would not otherwise have been able to obtain, helping them to:

(i) prevent or mitigate the effects of the offence;

(ii) identify or bring to justice the other offenders;

(iii) find evidence; or

(iv) prevent further offences referred to in Articles 1 to 4.

Article 7 - Liability of legal persons

1. Each Member State shall take the necessary measures to ensure that legal persons can be held liable for any of the offences referred to in Articles 1 to 4 committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on one of the following:

- (a) a power of representation of the legal person;
- (b) an authority to take decisions on behalf of the legal person;
- (c) an authority to exercise control within the legal person.

2. Apart from the cases provided for in paragraph 1, each Member State shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of any of the offences referred to in Articles 1 to 4 for the benefit of that legal person by a person under its authority.

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, instigators or accessories in any of the offences referred to in Articles 1 to 4.

Article 8 - Penalties for legal persons

Each Member State shall take the necessary measures to ensure that a legal person held liable pursuant to Article 7 is punishable by effective, proportionate and dissuasive penalties, which shall include criminal or non-criminal fines and may include other penalties, such as:

- (a) exclusion from entitlement to public benefits or aid;
- (b) temporary or permanent disqualification from the practice of commercial activities;
- (c) placing under judicial supervision;
- (d) a judicial winding-up order;
- (e) temporary or permanent closure of establishments which have been used for committing the offence.

Article 9 - Jurisdiction and prosecution

1. Each Member State shall take the necessary measures to establish its jurisdiction over the offences referred to in Articles 1 to 4 where:

- (a) the offence is committed in whole or in part in its territory. Each Member State may extend its jurisdiction if the offence is committed in the territory of a Member State;
- (b) the offence is committed on board a vessel flying its flag or an aircraft registered there;
- (c) the offender is one of its nationals or residents;
- (d) the offence is committed for the benefit of a legal person established in its territory;
- (e) the offence is committed against the institutions or people of the Member State in question or against an institution of the European Union or a body set up in accordance with the Treaty establishing the European Community or the Treaty on European Union and based in that Member State.

2. When an offence falls within the jurisdiction of more than one Member State and when any of the States concerned can validly prosecute on the basis of the same facts, the Member States concerned shall cooperate in order to decide which of them will prosecute the offenders with the aim, if possible, of centralising proceedings in a single Member State. To this end, the Member States may have recourse to any body or mechanism established within the European Union in order to facilitate cooperation between their judicial authorities and the coordination of their action. Sequential account shall be taken of the following factors:

- the Member State shall be that in the territory of which the acts were committed,
- the Member State shall be that of which the perpetrator is a national or resident,
- the Member State shall be the Member State of origin of the victims,
- the Member State shall be that in the territory of which the perpetrator was found.

3. Each Member State shall take the necessary measures also to establish its jurisdiction over the offences referred to in Articles 1 to 4 in cases where it refuses to hand over or extradite a person suspected or convicted of such an offence to another Member State or to a third country.

4. Each Member State shall ensure that its jurisdiction covers cases in which any of the offences referred to in Articles 2 and 4 has been committed in whole or in part within its territory, wherever the terrorist group is based or pursues its criminal activities.

5. This Article shall not exclude the exercise of jurisdiction in criminal matters as laid down by a Member State in accordance with its national legislation.

Article 10 - Protection of, and assistance to, victims

1. Member States shall ensure that investigations into, or prosecution of, offences covered by this Framework Decision are not dependent on a report or accusation made by a person subjected to the offence, at least if the acts were committed on the territory of the Member State.

2. In addition to the measures laid down in the Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings⁽⁹⁾, each Member State shall, if necessary, take all measures possible to ensure appropriate assistance for victims' families.

Article 11 - Implementation and reports

1. Member States shall take the necessary measures to comply with this Framework Decision by 31 December 2002.

2. By 31 December 2002, Member States shall forward to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision. On the basis of a report drawn up from that information and a report from the Commission, the Council shall assess, by 31 December 2003, whether Member States have taken the necessary measures to comply with this Framework Decision.

3. The Commission report shall specify, in particular, transposition into the criminal law of the Member States of the obligation referred to in Article 5(2).

Article 12 - Territorial application

This Framework Decision shall apply to Gibraltar.

Article 13 - Entry into force

This Framework Decision shall enter into force on the day of its publication in the Official Journal.

Done at Luxembourg, 13 June 2002.

For the Council - The President - M. Rajoy Brey

(1) OJ C 332 E, 27.11.2001, p. 300.

(2) Opinion delivered on 6 February 2002 (not yet published in the Official Journal).

(3) OJ C 19, 23.1.1999, p. 1.

(4) OJ C 26, 30.1.1999, p. 22.

(5) OJ L 273, 25.10.1996, p. 1.

(6) OJ L 191, 7.7.1998, p. 4.

(7) OJ L 351, 29.12.1998, p. 1.

(8) OJ C 373, 23.12.1999, p. 1.

(9) OJ L 82, 22.3.2001, p. 1.

12. Proposal for a Council Framework Decision on combating racism and xenophobia, COM(2001) 664 final

Proposal for a

COUNCIL FRAMEWORK DECISION

on combating racism and xenophobia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 29, 31 and 34(2)(b) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Racism and xenophobia are direct violations of the principles of liberty, democracy, respect for human rights and fundamental freedoms and the rule of law, principles upon which the European Union is founded and which are common to the Member States;
- (2) The Action Plan of the Council and the Commission on how to best implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice,³ the Conclusions of the Tampere European Council of 15 and 16 October 1999⁴, the European Parliament in its resolution of 20 September 2000⁵ and the Commission's Communication to the Council and the European Parliament on the biannual update of the Scoreboard⁶ to review progress on the creation of an area of "freedom, security and justice" in the European Union (second half of 2000) call for action in this field;
- (3) Joint Action 96/443/JHA of 15 July 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, concerning action to combat racism and xenophobia⁷ needs to be followed by further legislative action addressing the need for further approximation of law and regulations of Member States and for overcoming obstacles for efficient judicial cooperation which are mainly based on the divergence of legal approaches in the Member States;
- (4) According to the evaluation of the 1996 Joint Action and work carried out in other international fora, such as the Council of Europe, some difficulties have still been experienced regarding judicial cooperation and therefore there is a need for further improvement of Member States' criminal laws in order to ensure the implementation of a comprehensive and clear legislation to combat racism and xenophobia effectively;
- (5) It is necessary to define a common criminal law approach in the European Union to this phenomenon of racism and xenophobia in order to ensure that the same behaviour constitutes an offence in all Member States and that effective, proportionate and dissuasive penalties and sanctions are provided for natural and legal persons having committed or being liable for such offences;
- (6) Racist or xenophobic motivation should be taken into account as an aggravating factor when imposing penalties for ordinary offences. This would constitute a direct response to perpetrators of such offences and have a deterrent effect;
- (7) An offence concerning racism and xenophobia committed in the exercise of a professional activity, should be considered as an aggravating circumstance since it entails an abuse and is particularly reprehensible;

¹ OJ C ...

² OJ C ...

³ OJ C 19, 23.1.1999, p.1.

⁴ <http://ue.eu.int/en/Info/eurocouncil/index.htm>.

⁵ OJ C 146, 17.5.2001, p. 110.

⁶ COM (2000)782 final.

⁷ OJ L 185, 24.7.1996, p. 5.

- (8) It should be ensured that investigations and prosecutions of offences involving racism and xenophobia are not dependent on reports or accusation made by victims, who are often particularly vulnerable and reluctant to initiate legal proceedings;
- (9) Judicial cooperation in criminal matters should be promoted to combat more effectively racist and xenophobic offences by establishing clear rules on jurisdiction and extradition;
- (10) Operational contact points should be established for the exchange of information or adequate use should be made of existing cooperation mechanism.
- (11) All Member States have ratified the Council of Europe Convention of 28 January 1981 for the protection of individuals with regards to automatic processing of personal data. The personal data processed in the context of the implementation of this Framework Decision will be protected in accordance with the principles of the said Convention.
- (12) Since the objectives of ensuring that racism and xenophobia be sanctioned in all Member States by effective, proportionate and dissuasive criminal penalties and improving and encouraging judicial cooperation by removing potential obstacles, cannot be sufficiently achieved by the Member States individually, as rules have to be common and compatible, and can therefore better be achieved at the level of the Union, the Union may adopt measures, in accordance with the principle of subsidiarity as referred to in Article 2 of the EU Treaty and as set out in Article 5 of the EC Treaty. In accordance with the principle of proportionality, as set out in the latter Article, this Framework Decision does not go beyond what is necessary in order to achieve those objectives;
- (13) This Framework Decision is without prejudice to the powers of the European Community;
- (14) Joint Action 96/443/JHA should be repealed since with the adoption of the Treaty of Amsterdam, of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin⁸ and of this Framework Decision, it has become obsolete;
- (15) This Framework Decision respects the fundamental rights and observes the principles recognised in particular by the European Convention on Human Rights, in particular Articles 10 and 11 thereof, and by the Charter of Fundamental Rights of the European Union, and notably Chapters II and VI thereof;

HAS DECIDED AS FOLLOWS:

Article 1 - Subject-matter

This Framework Decision lays down provisions for approximation of laws and regulations of the Member States and for closer co-operation between judicial and other authorities of the Member States regarding offences involving racism and xenophobia.

Article 2 - Scope

This Framework Decision applies to offences involving racism and xenophobia committed:

- (a) within the territory of the Member States, or
- (b) by nationals of a Member State where the act affects individuals or groups of that State, or
- (c) for the benefit of a legal person established in a Member State.

Article 3 - Definitions

For the purposes of this Framework Decision, the following definitions shall apply:

- (a) "racism and xenophobia" shall mean the belief in race, colour, descent, religion or belief, national or ethnic origin as a factor determining aversion to individuals or groups;
- (b) "racist or xenophobic group" shall mean as a structured organisation established over a period of time, of more than two persons, acting in concert to commit offences referred to in Article 4, paragraphs (a) to (e).
- (c) "legal person" shall mean any entity having such status under the applicable law, except for States or other public bodies in the exercise of State authority and for public international organisations.

⁸ OJ L 180, 19.7.2000, p. 22.

Article 4 - Offences concerning racism and xenophobia

Member States shall ensure that the following intentional conduct committed by any means is punishable as criminal offence:

- (a) public incitement to violence or hatred for a racist or xenophobic purpose or to any other racist or xenophobic behaviour which may cause substantial damage to individuals or groups concerned;
- (b) public insults or threats towards individuals or groups for a racist or xenophobic purpose;
- (c) public condoning for a racist or xenophobic purpose of crimes of genocide, crimes against humanity and war crimes as defined in Articles 6, 7 and 8 of the Statute of the International Criminal Court;
- (d) public denial or trivialisation of the crimes defined in Article 6 of the Charter of the International Military Tribunal appended to the London Agreement of 8 April 1945 in a manner liable to disturb the public peace;
- (e) public dissemination or distribution of tracts, pictures or other material containing expressions of racism and xenophobia;
- (f) directing, supporting of or participating in the activities of a racist or xenophobic group, with the intention of contributing to the organisation's criminal activities.

Article 5 - Instigation, aiding, abetting and attempt

Member States shall ensure that instigating, aiding, abetting or attempting to commit an offence referred to in Article 4 is punishable.

Article 6 - Penalties and sanctions

1. Member State shall ensure that the offences referred to in Articles 4 and 5 are punishable by effective, proportionate and dissuasive penalties.
2. Each Member State shall take the necessary measures to ensure that the offences referred to in Article 4 (b) to (e) are punishable at least in serious cases, by custodial sentences which can give rise to extradition or surrender.
3. Each Member State shall take the necessary measures to ensure that the offences referred to in Article 4 (a) and (f) are punishable by terms of deprivation of liberty with a maximum penalty that is not less than 2 years.
4. Member States shall ensure that ancillary or alternative sanctions such as community service or participation in training courses, deprivation of certain civil or political rights or publication of all or part of a sentence may be imposed or foreseen for the offences referred to in Articles 4 and 5.
5. Member States shall ensure that fines can be imposed or payment for charitable purposes accepted in respect of the offences referred to in Articles 4 and 5.
6. Member States shall ensure seizure and confiscation of any material or instruments to commit and proceeds obtained from offences referred to in Articles 4 and 5.

Article 7 - Aggravating circumstance for racist offences

Member States shall ensure that in cases where the perpetrator of the offences referred to in Articles 4 and 5 is acting in the exercise of a professional activity and the victim is depending on this activity, the sentence can be aggravated.

Article 8 - Racist and xenophobic motivation

Member States shall ensure that racist and xenophobic motivation may be regarded as aggravating circumstances in the determination of the penalty for offences other than those referred to in Articles 4 and 5.

Article 9 - Liability of legal persons

1. Member States shall ensure that legal persons can be held liable for the forms of conduct referred to in Articles 4 and 5, committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:
 - (a) a power of representation of the legal person, or

- (b) an authority to take decisions on behalf of the legal person, or
- (c) an authority to exercise control within the legal person;

2. Apart from the cases provided for in paragraph 1, Member States shall ensure that a legal person can be held liable where the lack of supervision or control by a person referred to in paragraph 1 has made possible the commission of the offences referred to in Articles 4 and 5 for the benefit of that legal person by a person under its authority.
3. Liability of a legal person under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who commit offences or engage in the conduct referred to in Articles 4 and 5.

Article 10 - Sanctions for legal persons

1. Member States shall ensure that a legal person held liable pursuant to Article 9(1) is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions, such as:
 - a) exclusion from entitlement to public benefits or aid;
 - b) temporary or permanent disqualification from the practice of commercial activities;
 - c) placing under judicial supervision;
 - d) a judicial winding-up order;
 - e) temporary or permanent closure of establishments which have been used for committing the offence.
2. Member States shall ensure that a legal person held liable pursuant to Article 9(2) is punishable by effective, proportionate and dissuasive sanctions or measures.

Article 11 - Initiation of prosecutions

Each Member State shall ensure that investigations into or prosecution of offences referred to in Articles 4 and 5 shall not be dependent on the report or accusation made by a victim of the offence, at least in cases where offences referred to in Article 4, paragraphs (a), (e) and (f) have been committed in its territory.

Article 12 - Jurisdiction

1. Each Member State shall establish its jurisdiction with regard to the offences referred to in Articles 4 and 5 where the offence has been committed:
 - (a) in whole or in part within its territory; or
 - (b) by one of its nationals and the act affects individuals or groups of that State; or
 - (c) for the benefit of a legal person that has its head office in the territory of that Member State.
2. When establishing jurisdiction in accordance with paragraph 1(a), each Member State shall ensure that its jurisdiction extends to cases where the offence is committed through an information system and:
 - a) the offender commits the offence when physically present in its territory, whether or not the offence involves racist material hosted on an information system in its territory;
 - b) the offence involves racist material hosted on an information system in its territory, whether or not the offender commits the offence when physically present in its territory.
3. A Member State may decide not to apply, or to apply only in specific cases or circumstances, the jurisdiction rule set out in paragraphs 1 (b) and (c).
4. Member States shall inform the General Secretariat of the Council and the Commission accordingly where they decide to apply paragraph 3, where appropriate with an indication of the specific cases or circumstances in which the decision applies.

Article 13 - Extradition and prosecution

1. A Member State which, under its law, does not extradite its own nationals shall establish its jurisdiction over the offences referred to in Articles 4 and 5 when committed by its own nationals on the territory of another Member State.

2. Each Member State shall, when one of its nationals is alleged to have committed, in another Member State, an offence referred to in Articles 4 and 5, and it does not extradite that person to that other Member State solely on the ground of his nationality, submit the case to its competent authorities for the purpose of prosecution if appropriate.

In order to enable prosecution to take place, the Member State in which the offence was committed shall forward to the competent authorities of the other State all the relevant files, information and exhibits relating to the offence in accordance with the procedures laid down in Article 6(2) of the European Convention on Extradition of 13 December 1957. The requesting Member State shall be informed of the initiation and outcome of any prosecution.

3. For the purpose of this Article, a "national" of a Member State shall be constructed in accordance with any declaration made by that State under Article 6(1)(b) and (c) of the European Convention on Extradition.

Article 14 - Political offences

Member States shall ensure that the offences referred to in Articles 4 and 5 are not regarded as political offences justifying refusal to comply with requests for mutual legal assistance or extradition.

Article 15 - Exchange of information

1. Member States shall designate operational contact points or may use existing operational structures for the exchange of information and for other contacts between Member States for the purposes of applying this Framework Decision.
2. Each Member State shall inform the General Secretariat of the Council and the Commission of its operational contact points or operational structure for the purposes of paragraph 1. The General Secretariat shall notify that information to the other Member States.
3. Where a Member State has information relating to the storage in its territory of material containing expressions of racism and xenophobia for the purposes of distribution or dissemination in another Member State it shall provide that information to the other Member State to enable the latter to initiate, in accordance with its law, legal proceedings or proceedings for confiscation. For that purpose, the operational contact points referred to in paragraph 1 may be used.

Article 16 - Implementation

1. Member States shall take the necessary measures to comply with this Framework Decision by 30 June 2004.
2. They shall communicate to the General Secretariat of the Council and to the Commission the text of any provisions they adopt and information on any other measures they take to comply with this Framework Decision.
3. On that basis, the Commission shall, by 30 June 2005, submit a report to the European Parliament and to the Council on the operation of this Framework Decision, accompanied where necessary by legislative proposals.
4. The Council shall assess the extent to which Member States have complied with this Framework Decision.

Article 17 - Repeal of Joint Action 96/443/JHA

The Joint Action 96/443/JHA is hereby repealed.

Article 18 - Entry into force

This Framework Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

Done at Brussels,

*For the Council
The President*

13. ECJ, Case C-234/04, Kapferer, Rec. 2006, p. I-2585

JUDGMENT OF THE COURT (First Chamber)

16 March 2006 (*)

(Jurisdiction in civil matters – Regulation (EC) No 44/2001 – Interpretation of Article 15 – Jurisdiction over consumer contracts – Prize notification – Misleading advertising – Judgment on jurisdiction – Res judicata – Review on appeal – Legal certainty – Primacy of Community law – Article 10 EC)

In Case C-234/04,

REFERENCE for a preliminary ruling under Article 234 EC from the Landesgericht Innsbruck (Austria), made by decision of 26 May 2004, received at the Court on 3 June 2004, in the proceedings

Rosmarie Kapferer

v

Schlank & Schick GmbH,

THE COURT (First Chamber),

composed of P. Jann, President of the Chamber, N. Colneric (Rapporteur), K. Lenaerts, E. Juhász and M. Ilešič, Judges,

Advocate General: A. Tizzano,

Registrar: B. Fülöp, Administrator,

having regard to the written procedure and further to the hearing on 8 September 2005, after considering the observations submitted on behalf of:

- Schlank & Schick GmbH, by M. Alexander and M. Dreschers, Rechtsanwälte,
- the Republic of Austria, by H. Dossi and S. Pfanner, acting as Agents,
- the Czech Republic, by T. Boček, acting as Agent,
- the Federal Republic of Germany, by A. Tiemann and A. Günther, acting as Agents,
- the French Republic, by A. Bodard-Hermant, R. Abraham, G. de Bergues and J.-C. Niollet, acting as Agents,
- the Republic of Cyprus, by M. Chatzigeorgiou, acting as Agent,
- the Kingdom of the Netherlands, by C.A.H.M. ten Dam, acting as Agent,
- the Republic of Finland, by T. Pynnä, acting as Agent,
- the Kingdom of Sweden, by A. Falk, acting as Agent,
- the United Kingdom of Great Britain and Northern Ireland, by E. O'Neill, acting as Agent, and by D. Lloyd-Jones QC,
- the Commission of the European Communities, by A.-M. Rouchaud and W. Bogensberger, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 10 November 2005,

gives the following

Judgment

1 This reference for a preliminary ruling concerns the interpretation of Article 10 EC and Article 15 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p. 1).

2 The reference was made in the course of proceedings between Ms Kapferer, an Austrian national domiciled in Hall in Tirol (Austria), and Schlank & Schick GmbH ('Schlank & Schick'), a mail order company incorporated under German law established in Germany, concerning an action for an order requiring Schlank & Schick to award Ms Kapferer a prize because, in a letter personally addressed to her, it had given Ms Kapferer the impression that she had won a prize.

Legal background

Community law

3 Article 15(1) of Regulation No 44/2001 provides:

'In matters relating to a contract concluded by a person, the consumer, for a purpose which can be regarded as being outside his trade or profession, jurisdiction shall be determined by this Section, without prejudice to Article 4 and Article 5(5), if:

...

(c) in all other cases, the contract has been concluded with a person who pursues commercial or professional activities in the Member State of the consumer's domicile or, by any means, directs such activities to that Member State or to several States including that Member State, and the contract falls within the scope of such activities.'

4 In accordance with Article 16(1) of Regulation No 44/2001, '[a] consumer may bring proceedings against the other party to a contract either in the courts of the Member State in which that party is domiciled or in the courts for the place where the consumer is domiciled'.

5 Article 24 of Regulation No 44/2001 provides:

'Apart from jurisdiction derived from other provisions of this Regulation, a court of a Member State before which a defendant enters an appearance shall have jurisdiction. This rule shall not apply where appearance was entered to contest the jurisdiction, or where another court has exclusive jurisdiction by virtue of Article 22.'

National law

6 Paragraph 5j of the Austrian Consumer Protection Law (Konsumentenschutzgesetz), in the version under the law which entered into force on 1 October 1999 (BGBl. I, 185/1999; 'the KSchG') provides as follows:

'Undertakings which send prize notifications or other similar communications to specific consumers, and by the wording of those communications give the impression that a consumer has won a particular prize, must give that prize to the consumer; that prize may also be claimed in legal proceedings.'

7 Paragraph 530 of the Austrian Code of Civil Procedure (Zivilprozessordnung; 'the ZPO') on the conditions governing the revision of judgments provides:

'(1) Proceedings that have been concluded by a decision resolving the case can be reopened on an application being made by one of the parties,

...

5. if a decision by a criminal court on which the judgment is based has been set aside by a subsequent final judgment;

6. if the applicant discovers the existence of, or is placed in a position to use, a previous judgment concerning the same claim or the same legal relationship which is already final and which determines the rights of and between the parties of the case to be reopened;

7. if that party becomes aware of new facts or discovers or becomes able to use evidence the adducing and use of which in earlier proceedings would have resulted in a decision more favourable to it.

(2) Revision is only permitted in the circumstances stated in point 7 of Paragraph 1 if, due to no fault of its own, the party was unable to plead the new facts or evidence before the close of the oral procedure on the basis of which the decision was pronounced at first instance.'

8 Article 534 of the ZPO provides:

'(1) Proceedings must be brought within a deadline of four weeks.

(2) That deadline is calculated:

...

4. in the case of point 7 of Paragraph 530(1), from the date on which the party was capable of bringing before the court the facts and evidence brought to its knowledge.

(3) Proceedings ... cannot be issued more than 10 years after the decision has become final.'

The dispute in the main proceedings

9 In her capacity as a consumer, Ms Kapferer received advertising material on a number of occasions from Schlank & Schick containing prize notifications. Two weeks after a further letter addressed to her personally, according to which a prize in the form of a cash credit in the sum of ATS 53 750 (EUR 3 906.16) was waiting for her, Ms Kapferer received an envelope containing, inter alia, an order form, a letter concerning the final notice of that cash credit and a statement of account. According to the participation/award conditions on the reverse side of that notice, participation in the distribution of the prizes was subject to a test order without obligation.

10 Ms Kapferer returned the order form to Schlank & Schick after affixing a credit stamp and signing the reverse side of that order form below the words 'I have noted the participation conditions', but without having read the participation/award conditions. It is not possible to establish whether she also placed an order on that occasion.

11 Not having received the prize she believed she had won, Ms Kapferer claimed that prize on the basis of Article 5j of the KSchG, seeking an order directing Schlank & Schick to pay her the sum of EUR 3 906.16 plus 5% interest from 27 May 2000 onwards.

12 Schlank & Schick objected that the court seised lacked jurisdiction. It argues that the provisions of Articles 15 and 16 of Regulation No 44/2001 are not applicable because they presuppose that there should be a contract for valuable consideration. Participation in the prize game was subject to making an order, which Ms Kapferer never did. The right deriving from Paragraph 5j of the KSchG is not, in their view, of a contractual nature.

13 The Bezirksgericht (District Court) dismissed the plea of lack of competence and declared itself to have jurisdiction on the basis of Articles 15 and 16 of Regulation No 44/2001, on the grounds that there is, in its view, a contractual relationship between the parties to the dispute. As regards the merits of the case, the Bezirksgericht dismissed all of Ms Kapferer's heads of claim.

14 Ms Kapferer brought an appeal before the referring court. For its part, Schlank & Schick took the view that the Bezirksgericht's decision relating to its jurisdiction did not adversely affect it because it had, in any event, succeeded on the merits. For that reason Schlank and Schick did not challenge that decision on jurisdiction.

15 The national court observed, however, that Schlank & Schick could have challenged the dismissal of the plea of lack of jurisdiction because it could have been adversely affected by that decision alone.

The questions referred for a preliminary ruling

16 The Landesgericht Innsbruck (Regional Court, Innsbruck) expresses doubts about the international jurisdiction of the Bezirksgericht. Relying on the judgment in Case C-96/00 *Gabriel* [2002] ECR I-6367, the referring court asks whether a misleading promise of financial benefit calculated to induce a contract, and therefore to prepare the ground for that contract, has a connection with the consumer contract intended to result from it sufficiently close to give rise to consumer contract jurisdiction.

17 Since Schlank & Schick has not challenged the decision to dismiss the defence of lack of jurisdiction, the referring court wonders whether it none the less has an obligation under Article 10 EC to review and set aside a final and conclusive judgment on international jurisdiction if that judgment is proved to be contrary to Community law. The national court envisages the existence of such an obligation, asking specifically whether it is possible to transpose the principles laid down in the judgment in Case C-453/00 *Kühne & Heitz* [2004] ECR I-837, concerning the obligation imposed on an administrative body to review a final administrative decision which is contrary to Community law, as it has been interpreted in the mean time by the Court.

18 In those circumstances, the Landesgericht Innsbruck decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

(1) The court of first instance's decision as to jurisdiction:

(a) Is the principle of cooperation enshrined in Article 10 EC to be interpreted as meaning that, in the circumstances stated in the judgment of the Court of Justice in Case C-453/00 *Kühne & Heitz*, a national court is also obliged to review and set aside a final judicial decision if the latter should infringe Community law? Are there any other conditions applicable to the review and setting aside of judicial decisions in contrast to administrative decisions?

(b) If the answer to Question 1(a) should be in the affirmative:

Is the period given under Paragraph 534 of the ZPO for the setting aside of judicial decisions that are contrary to Community law compatible with the principle of full effectiveness of Community law?

(c) Furthermore, if the answer to Question 1(a) should be in the affirmative:

Does a lack of international (or local) jurisdiction that is not remedied by Article 24 of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters constitute a breach of Community law that, under the principles concerned, can set aside the legal force of a judicial decision?

(d) If the answer to Question 1(c) should be in the affirmative:

Is a court of appeal obliged to review the issue of international (or local) jurisdiction under Regulation No 44/2001 if the jurisdiction decision of the court of first instance has become final but the decision on the merits of the case has not? If so, is that review to be conducted by the court of its own motion or only at the instigation of one of the parties to the proceedings?

(2) Jurisdiction over consumer contracts under Article 15(1)(c) of Regulation No 44/2001:

(a) Does a misleading promise of financial benefit that induces the conclusion of a contract – and, therefore, prepares the ground for a contract – demonstrate a connection with the intended conclusion of a consumer contract sufficiently close for jurisdiction over consumer contracts under Article 15(1)(c) of Regulation No 44/2001 to be afforded to consequent claims?

(b) If the answer to Question 2(a) should be in the negative:

Is jurisdiction over consumer contracts afforded to claims arising out of a pre-contractual obligation and does a misleading promise of financial benefit that helps to prepare the ground for a contract demonstrate a sufficiently close connection with the pre-contractual obligation thereby established for jurisdiction over consumer contracts also to be afforded thereto?

(c) Is jurisdiction over consumer contracts afforded only if the conditions stipulated by the undertaking for participation in the prize game are satisfied, even if those conditions are not to be given any consideration in the substantive claim under Paragraph 5j of the KSchG?

(d) If the answers to Questions 2(a) and (b) should be in the negative:

Is jurisdiction over consumer contracts afforded sui generis to a specific statutory form of contractual performance claim or sui generis to a constructive quasi-contractual performance claim which arises as a result of a promise of financial benefit made by an undertaking and the claiming of the financial benefit by the consumer?'

Question 1(a)

19 By Question 1(a), the referring court asks essentially whether, and, where relevant, in what conditions, the principle of cooperation arising from Article 10 EC imposes on a national court an obligation to review and set aside a final judicial decision if that decision should infringe Community law.

20 In that regard, attention should be drawn to the importance, both for the Community legal order and national legal systems, of the principle of *res judicata*. In order to ensure both stability of the law and legal relations and the sound administration of justice, it is important that judicial decisions which have become definitive after all rights of appeal have been exhausted or after expiry of the time-limits provided for in that connection can no longer be called into question (Case C-224/01 *Köbler* [2003] ECR I-10239, paragraph 38).

21 Therefore, Community law does not require a national court to disapply domestic rules of procedure conferring finality on a decision, even if to do so would enable it to remedy an infringement of Community law by the decision at issue (see, to that effect, Case C-126/97 *Eco Swiss* [1999] ECR I-3055, paragraphs 46 and 47).

22 By laying down the procedural rules for proceedings designed to ensure protection of the rights which individuals acquire through the direct effect of Community law, Member States must ensure that such rules are not less favourable than those governing similar domestic actions (principle of equivalence) and are not framed in such a way as to render impossible in practice the exercise of rights conferred by Community law (principle of effectiveness) (see, to that effect, Case C-78/98 *Preston and Others* [2000] ECR I-3201, paragraph 31 and the case-law cited). However, compliance with the limits of the power of the Member States in procedural matters has not been called into question in the dispute in the main proceedings as regards appeal proceedings.

23 It should be added that the judgment in *Kühne & Heitz*, to which the national court refers in Question 1(a), is not such as to call into question the foregoing analysis. Even assuming that the principles laid down in that judgment could be transposed into a context which, like that of the main proceedings, relates to a final judicial decision, it should be recalled that that judgment makes the obligation of the body concerned to review a final decision, which would appear to have been adopted in breach of Community law subject, in accordance with Article 10 EC, to the condition, *inter alia*, that that body should be empowered under national law to reopen that decision (see paragraphs 26 and 28 of that judgment). In this case it is sufficient to note that it is apparent from the reference for a preliminary ruling that that condition has not been satisfied.

24 Having regard to the foregoing considerations, the answer to Question 1(a) must be that the principle of cooperation under Article 10 EC does not require a national court to disapply its internal rules of procedure in order to review and set aside a final judicial decision if that decision should be contrary to Community law.

Concerning the other questions

25 Having regard to the answer given to Question 1(a), and the national court indicating that it is unable to review the decision on the *Bezirksgericht's* jurisdiction, there is no need to answer Question 1(b) to (d) or Question 2(a) to (d).

Costs

26 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

The principle of cooperation under Article 10 EC does not require a national court to disapply its internal rules of procedure in order to review and set aside a final judicial decision if that decision should be contrary to Community law.

[Signatures]

* Language of the case: German.

14. Joint Declaration by the European Parliament, Council and the Commission concerning the protection of fundamental rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms, Luxembourg, 5 April 1977 (OJ C 103, 27.4.1977, p. 1)

JOINT DECLARATION by the European Parliament, the Council and the Commission

THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COMMISSION,

Whereas the Treaties establishing the European Communities are based on the principle of respect for the law;

Whereas, as the Court of Justice has recognized, that law comprises, over and above the rules embodied in the treaties and secondary Community legislation, the general principles of law and in particular the fundamental rights, principles and rights on which the constitutional law of the Member States is based;

Whereas, in particular, all the Member States are Contracting Parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950,

HAVE ADOPTED THE FOLLOWING DECLARATION:

1. The European Parliament, the Council and the Commission stress the prime importance they attach to the protection of fundamental rights, as derived in particular from the constitutions of the Member States and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

2. In the exercise of their powers and in pursuance of the aims of the European Communities they respect and will continue to respect these rights.

Done at Luxembourg on the fifth day of April in the year one thousand nine hundred and seventy-seven.

For the European Parliament

E. COLOMBO

For the Council

D. OWEN

For the Commission

R. JENKINS

15. Charter of Fundamental Rights of the European Union of 7 December 2000 (OJ C 364, 18.12.2000, p. 1)

Preamble

The peoples of Europe, in creating an ever closer union among them, are resolved to share a peaceful future based on common values.

Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice.

The Union contributes to the preservation and to the development of these common values while respecting the diversity of the cultures and traditions of the peoples of Europe as well as the national identities of the Member States and the organisation of their public authorities at national, regional and local levels; it seeks to promote balanced and sustainable development and ensures free movement of persons, goods, services and capital, and the freedom of establishment.

To this end, it is necessary to strengthen the protection of fundamental rights in the light of changes in society, social progress and scientific and technological developments by making those rights more visible in a Charter.

This Charter reaffirms, with due regard for the powers and tasks of the Community and the Union and the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the Treaty on European Union, the Community Treaties, the European Convention for the Protection of Human Rights and

Fundamental Freedoms, the Social Charters adopted by the Community and by the Council of Europe and the case law of the Court of Justice of the European Communities and of the European Court of Human Rights.

Enjoyment of these rights entails responsibilities and duties with regard to other persons, to the human community and to future generations.

The Union therefore recognises the rights, freedoms and principles set out hereafter.

Chapter I - Dignity

Article 1 - Human dignity

Human dignity is inviolable. It must be respected and protected.

Article 2 - Right to life

1. Everyone has the right to life.
2. No one shall be condemned to the death penalty, or executed.

Article 3 - Right to the integrity of the person

1. Everyone has the right to respect for his or her physical and mental integrity.
2. In the fields of medicine and biology, the following must be respected in particular:

- the free and informed consent of the person concerned, according to the procedures laid down by law,
- the prohibition of eugenic practices, in particular those aiming at the selection of persons,
- the prohibition on making the human body and its parts as such a source of financial gain,
- the prohibition of the reproductive cloning of human beings.

Article 4 - Prohibition of torture and inhuman or degrading treatment or punishment

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

Article 5 - Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. Trafficking in human beings is prohibited.

Chapter II - Freedoms

Article 6 - Right to liberty and security

Everyone has the right to liberty and security of person.

Article 7 - Respect for private and family life

Everyone has the right to respect for his or her private and family life, home and communications.

Article 8 - Protection of personal data

1. Everyone has the right to the protection of personal data concerning him or her.
2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.
3. Compliance with these rules shall be subject to control by an independent authority.

Article 9 - Right to marry and right to found a family

The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights.

Article 10 - Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion. This right includes freedom to change religion or belief and freedom, either alone or in community with others and in public or in private, to manifest religion or belief, in worship, teaching, practice and observance.
2. The right to conscientious objection is recognised, in accordance with the national laws governing the exercise of this right.

Article 11 - Freedom of expression and information

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.
2. The freedom and pluralism of the media shall be respected.

Article 12 - Freedom of assembly and of association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests.
2. Political parties at Union level contribute to expressing the political will of the citizens of the Union.

Article 13 - Freedom of the arts and sciences

The arts and scientific research shall be free of constraint. Academic freedom shall be respected.

Article 14 - Right to education

1. Everyone has the right to education and to have access to vocational and continuing training.
2. This right includes the possibility to receive free compulsory education.
3. The freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right.

Article 15 - Freedom to choose an occupation and right to engage in work

1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation.
2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State.
3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.

Article 16 - Freedom to conduct a business

The freedom to conduct a business in accordance with Community law and national laws and practices is recognised.

Article 17 - Right to property

1. Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law insofar as is necessary for the general interest.
2. Intellectual property shall be protected.

Article 18 - Right to asylum

The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community.

Article 19 - Protection in the event of removal, expulsion or extradition

1. Collective expulsions are prohibited.
2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

Chapter III - Equality

Article 20 - Equality before the law

Everyone is equal before the law.

Article 21 - Non-discrimination

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.
2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.

Article 22 - Cultural, religious and linguistic diversity

The Union shall respect cultural, religious and linguistic diversity.

Article 23 - Equality between men and women

Equality between men and women must be ensured in all areas, including employment, work and pay. The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex.

Article 24 - The rights of the child

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.
2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.
3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

Article 25 - The rights of the elderly

The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

Article 26 - Integration of persons with disabilities

The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community.

Chapter IV - Solidarity

Article 27 - Workers' right to information and consultation within the undertaking

Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Community law and national laws and practices.

Article 28 - Right of collective bargaining and action

Workers and employers, or their respective organisations, have, in accordance with Community law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.

Article 29 - Right of access to placement services

Everyone has the right of access to a free placement service.

Article 30 - Protection in the event of unjustified dismissal

Every worker has the right to protection against unjustified dismissal, in accordance with Community law and national laws and practices.

Article 31 - Fair and just working conditions

1. Every worker has the right to working conditions which respect his or her health, safety and dignity.
2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.

Article 32 - Prohibition of child labour and protection of young people at work

The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations. Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.

Article 33 - Family and professional life

1. The family shall enjoy legal, economic and social protection.
2. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child.

Article 34 - Social security and social assistance

1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the procedures laid down by Community law and national laws and practices.
2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Community law and national laws and practices.
3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the procedures laid down by Community law and national laws and practices.

Article 35 - Health care

Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

Article 36 - Access to services of general economic interest

The Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaty establishing the European Community, in order to promote the social and territorial cohesion of the Union.

Article 37 - Environmental protection

A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development.

Article 38 - Consumer Protection

Union policies shall ensure a high level of consumer protection.

Chapter V - Citizen's Rights

Article 39 - Right to vote and to stand as a candidate at elections to the European Parliament

1. Every citizen of the Union has the right to vote and to stand as a candidate at elections to the European Parliament in the Member State in which he or she resides, under the same conditions as nationals of that State.
2. Members of the European Parliament shall be elected by direct universal suffrage in a free and secret ballot.

Article 40 - Right to vote and to stand as a candidate at municipal elections

Every citizen of the Union has the right to vote and to stand as a candidate at municipal elections in the Member State in which he or she resides under the same conditions as nationals of that State.

Article 41 - Right to good administration

1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.
2. This right includes:
 - the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
 - the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;
 - the obligation of the administration to give reasons for its decisions.
3. Every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

Article 42 - Right of access to documents

Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to European Parliament, Council and Commission documents.

Article 43 - Ombudsman

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the Ombudsman of the Union cases of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role.

Article 44 - Right to petition

Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to petition the European Parliament.

Article 45 - Freedom of movement and of residence

1. Every citizen of the Union has the right to move and reside freely within the territory of the Member States.
2. Freedom of movement and residence may be granted, in accordance with the Treaty establishing the European Community, to nationals of third countries legally resident in the territory of a Member State.

Article 46 - Diplomatic and consular protection

Every citizen of the Union shall, in the territory of a third country in which the Member State of which he or she is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that Member State.

Chapter VI - Justice

Article 47 - Right to an effective remedy and to a fair trial

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice.

Article 48 - Presumption of innocence and right of defence

1. Everyone who has been charged shall be presumed innocent until proved guilty according to law.
2. Respect for the rights of the defence of anyone who has been charged shall be guaranteed.

Article 49 - Principles of legality and proportionality of criminal offences and penalties

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than that which was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations.
3. The severity of penalties must not be disproportionate to the criminal offence.

Article 50 - Right not to be tried or punished twice in criminal proceedings for the same criminal offence

No one shall be liable to be tried or punished again in criminal proceedings for an offence for which he or she has already been finally acquitted or convicted within the Union in accordance with the law.

Chapter VII - General Provisions

Article 51 - Scope

1. The provisions of this Charter are addressed to the institutions and bodies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers.

2. This Charter does not establish any new power or task for the Community or the Union, or modify powers and tasks defined by the Treaties.

Article 52 - Scope of guaranteed rights

1. Any limitation on the exercise of the rights and freedoms recognised by this Charter must be provided for by law and respect the essence of those rights and freedoms. Subject to the principle of proportionality, limitations may be made only if they are necessary and genuinely meet objectives of general interest recognized by the Union or the need to protect the rights and freedoms of others.

2. Rights recognised by this Charter which are based on the Community Treaties or the Treaty on European Union shall be exercised under the conditions and within the limits defined by those Treaties.

3. Insofar as this Charter contains rights which correspond to rights guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms, the meaning and scope of those rights shall be the same as those laid down by the said Convention. This provision shall not prevent Union law providing more extensive protection.

Article 53 - Level of protection

Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by Union law and international law and by international agreements to which the Union, the Community or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and by the Member States' constitutions.

Article 54 - Prohibition of abuse of rights

Nothing in this Charter shall be interpreted as implying any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognised in this Charter or at their limitation to a greater extent than is provided for herein.

16. Regulation No 1 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to Article 217 of the Treaty which provides that the rules governing the languages of the institutions of the Community shall, without prejudice to the provisions contained in the rules of procedure of the Court of Justice, be determined by the Council, acting unanimously;

Whereas each of the four languages in which the Treaty is drafted is recognised as an official language in one or more of the Member States of the Community;

HAS ADOPTED THIS REGULATION:

Article 1

The official languages and the working languages of the institutions of the Community shall be Dutch, French, German and Italian.

Article 2

Documents which a Member State or a person subject to the jurisdiction of a Member State sends to institutions of the Community may be drafted in any one of the official languages selected by the sender. The reply shall be drafted in the same language.

Article 3

Documents which an institution of the Community sends to a Member State or to a person subject to the jurisdiction of a Member State shall be drafted in the language of such State.

Article 4

Regulations and other documents of general application shall be drafted in the four official languages.

Article 5

The Official Journal of the Community shall be published in the four official languages.

Article 6

The institutions of the Community may stipulate in their rules of procedure which of the languages are to be used in specific cases.

Article 7

The languages to be used in the proceedings of the Court of Justice shall be laid down in its rules of procedure.

Article 8

If a Member State has more than one official language, the language to be used shall, at the request of such State, be governed by the general rules of its law.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 15 April 1958.

For the Council

The President

V. LAROCK