

AMENDMENTS TO THE FINAL REPORT OF WORKING GROUP II
"INCORPORATION OF THE CHARTER / ACCESSION TO THE ECHR"

We *understand* that it was *not* the mission of the Working Group of the Convention to *change* the *content* of the Charter, but we also believe that the Charter can be developed and that therefore **the Convention should propose mechanisms for its modification**, i.e (a clause in the treaty allowing for continuing improvement of the constitution and thereby for the future development of the Charter). The group therefore also proposes some possible changes that may be incorporated into the Charter in its present state.

As a result of the discussions of the participants of the working group on Charter of Human Rights the following amendments to the report of Working Group II of European Convention should be taken into consideration:

1. *We propose that the Charter's Preamble become the Preamble of the Constitutional Treaty.*

We accept that small changes might be necessary to make it a more appropriate Preamble for the Constitution; however, its contents and message should not be modified because the message implies a union based on fundamental rights, and we believe this is the best starting position.

2. *We propose that the first line of the Preamble to the Charter should read; "The peoples and citizens of Europe, in creating and ever closer union among them, are resolved to share a peaceful future based on common values".*

By adding such a reference to citizenship, we put the citizens at the core of the future of Europe. In addition, the right to live in peace should be inserted into the preamble, as well as in the text itself of the Charter.

3. *We propose incorporation of the body of the Charter into one article under Title II of the proposed Constitution. Moreover, we suggest that Title II should read "Charter of Fundamental Rights" and not "Citizenship and Fundamental Rights".*

We propose the elimination of the article concerning citizenship, considering that the Charter already covers this topic. We prefer this approach because the order proposed by the Praesidium would subordinate the idea of Fundamental Rights to the concept of Citizenship, whereas certain Fundamental Rights apply to every person in the European Union regardless of citizenship. Nonetheless, we would accept that the section of the Charter concerning citizenship could be modified if necessary without reopening the discussion of the rest of the contents of the Charter. This technique for incorporating the Charter would act as a powerful symbol, placing Fundamental Rights at the centre of the European project.

4. *Article 1 We suggest introducing an expression putting a better focus on the mutual engagement: therefore, the article should read:*

*"Human dignity is inviolable. It must be respected and protected by a **mutual engagement between Union, States, and peoples of Europe.**"*

5. We propose introducing a specific clause regarding the importance of decent living conditions. Such a clause should be included in article 34, as 4th paragraph:

"Every citizen should have an equal right to decent living conditions, such as the right to housing, in order to satisfy one's vital needs."

6. We propose adding to article 14: "the right to education and access to culture".

The access to culture as a fundamental right for every citizen and should be strongly implemented in order to give the possibility to benefit equally from every culture's production.

7. As regards article 3 about the right to the integrity of the person we suggest to add a 3rd paragraph: "Scientific research should become more visible to the public in order to protect human integrity".

8. We propose to remove completely article 51 and to change article 52 by keeping only the first sentence and adding "Any changes in the content of the Charter may not result in any limitation of the fundamental rights guaranteed herewith". Our reason is that without any modifications these articles would limit the application of the Charter and would soften the protection of the human rights.

9. Article 37 regards environmental protection, as it is stated in its sentence "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." This regulation does not refer to a healthy environment as a right of every single citizen, and as a limit to economy, even though these ideas are expressed elsewhere within the same text. We think that a more effective formulation could be inspired by article 45 of the Spanish Constitution, and therefore we should add:

"Everyone has the right to benefit from an environment which favours the development of the individual, as much as the duty to preserve it.

Public authorities are to ensure that all natural resources are utilised rationally, in order to protect and improve quality of life, and to safeguard the environment; to do this, collective solidarity is essential.

Those who breach the provision stated in the previous paragraph will incur penalties and, if necessary, administrative sanctions, according to the law, and are to pay for the damage done."

10. E.U. Accession to ECHR

We strongly recommend the inclusion of the specific clause in the Constitutional Treaty as regards the accession of European Union to the ECHR, which would create a clear, legally binding obligation for the EU to accede to ECHR, thus accepting the superiority of the Court of Human Rights.

11. As regards article 12 paragraph 2 should read: "European Political Parties shall contribute to forming a European awareness and to express the political will of the citizens of the Union"

We assume that participative democracy should be a leading principle of EU. European parties should play a greater role in European politics.

12. We propose that a European referendum, or public consultations to be taken, on the same day in every member state of EU, on the final constitutional treaty to ensure participative democracy.

We would like to make the Constitutional Treaty a lot more than just an intergovernmental treaty. By the referendum it would become the constitution of all Europeans