

DRAFT CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

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COVER NOTE

Subject : Draft Charter of Fundamental Rights of the European Union

Please find hereafter a contribution by the working group on EU-citizenship, fundamental rights and cultural diversity of the federalist group at the European institutions (UEF-EU) concerning Safeguarding public traditions and cultural heritage.¹

¹ This text has been submitted in English language only.

**CONCERNING
THE DRAFT CHARTER ON FUNDAMENTAL RIGHTS
ARTICLE 26 « RIGHT TO VOTE AND TO STAND IN LOCAL ELECTIONS »
ARTICLE 30 « FREEDOM TO MOVE AND TO SETTLE ...»
PROPOSED AMENDMENT**

**by the Working group
on EU citizenship, fundamental rights and cultural diversity, UEF-EU,
and the Association of former trainees of the European Communities (ADEK)**

NEED FOR AN AMENDMENT AS THERE IS A CONFLICT BETWEEN :

**THE ‘DEMOCRATIC PRINCIPLE’ AND THE ‘TERRITORIAL PRINCIPLE’
CONFLICT IN A MULTI-NATIONAL, MULTI-CULTURAL COMMUNITY
HAVING COMMON CITIZENSHIP, FREE MOVEMENT OF PEOPLE,
FREEDOM OF SETTLEMENT AND
THE RIGHT TO PARTICIPATE IN LOCAL ELECTIONS
BETWEEN
MAJORITY VOTING AND (PUBLIC) CULTURAL TRADITIONS
IN PARTICULAR AT THE LOCAL LEVEL !!!**

**INTRODUCING A NEW CATEGORY OF PUBLIC CIVIC RIGHTS
AS TO OFFICIAL TRADITIONS
IN CULTURE , LANGUAGE AND RELIGION AT A SPECIFIC PLACE**

**A SORT OF TERRITORIAL CIVIC RIGHT
AS TO CULTURE, LANGUAGE OR RELIGION**

WHICH CANNOT BE TAKEN AWAY FROM A LOCAL COMMUNITY

**BY A MAJORITY OF ‘NEW-COMMERS’
EXCEPT THE CONCERNED COMMUNITY
(HISTORIC CULTURAL MAJORITY)
WANTS TO CHANGE THE OFFICIAL TRADITION ITSELF !**

ARTICLE 26 SHOULD THEREFORE READ AS FOLLOWS :

Article 26 : Right to vote and to stand as a candidate in 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 resides under the same conditions as nationals of that State.

(> Democratic principle)

The “official heritage and public traditions as to culture, language or religion” of a local community should be recognised by every citizen participating in the elections by means of accepting the following principles:

(> Territorial principle)

1. Concerning the “public heritage of a local Community”, like the official language in public life and administration, the official feasting or commemoration days as to culture or religion, **all rights and obligations resulting from the present legal situation in a Member State of the Union have to be respected.**
(> **Status quo principle**)
2. Any person who intends to participate as a candidate in municipal elections should have shown in practice that he or she is **ready to integrate into the existing local Community and is going to respect the “official cultural heritage”** of the place concerned.
(> **principle of good will to integrate**).
3. Any elected democratic majority having different preferences as to the “official and public traditions” **cannot change** the legally existing provisions as to the **linguistic rights and obligations or as to the official cultural traditions in public life of the municipality**, except the concerned “cultural/linguistic group” (historic majority) wants to change the provision or conditions itself.
(> **Principle of 'historic' rights/ancienty, or application of the principle: “Treat your neighbour as you want to be treated by him in the same situation!”**).

PROPOSAL FOR AMENDING THE DRAFT CHARTER ON FUNDAMENTAL RIGHTS
concerning “Safeguarding public traditions and cultural heritage”

> reference: Article 26: “Right to vote and to stand in local elections ...”
Article 30: “Freedom to move and to settle within the Union ...”

EXPOSE DE MOTIF

The European Union constitutes a multi-national, multi-cultural and multi-lingual community. The treaty on the European Union (Maastricht, article 8) introduced the citizenship of the Union for all nationals of the Member states and the right to vote and to stand (for such nationals) as a candidate (not only in common European elections but also) in municipal elections in the Member state of residence.

Common citizenship and the free movement of people of different cultural and linguistic background within the citizenship's common political territory can not only create permanent linguistic conflicts between the different cultural groups of the political entity (Country, State, Community, Union), but also put a permanent strain on local self-government by threatening existing local majorities (ethnic, cultural or linguistic) to become minorities through the immigration of people from other parts of the Union having another cultural background and speaking other languages. (examples within Belgium, France, Spain, eastern European countries, ex-Yugoslavia, Russia etc.)

Thus, common citizenship, free movement of people and the right to participate in elections might, especially on the local level, bring, if there are different languages, cultures and traditions within this political union, two universally accepted principles into a permanent conflict, i. e.,

the territorial principle versus the democratic principle.

If the language and culture would be of uniformity all over the Union, state or Country, this conflict would not exist.

For a multinational community like the European Union it is therefore of vital interest for its long-term political cohesion that universally accepted principles and rules are applied, especially concerning - in an adequate way - the protection of languages, cultures and traditions. This is in particular true on the local level as the cultural and linguistic identity of people living since generations in a specific area or place can be more easily outvoted through democratic elections by a sufficient number of newcomers having another linguistic and cultural background or other priorities in these fields.

In the context of the EU-citizenship and mobility, everybody who lives and/or works in a commune or town of another Member state can easily join local or regional parties or even create new local or regional groupings. Thus, through mobility and immigration, **present local majorities can become new minorities.**

Multinational and multi-cultural societies therefore need a general code of conduct for treating with the problem of changing local majorities, respectively of new cultural and linguistic minorities, and this, in the first place, at the local level, i.e., the commune, municipality or town-district level, as they are the smallest democratically elected political entities covering a specifically defined territory.

Existing **problems linked to local and regional ethnic minorities can not be solved with this amendment to the Charter, but this amendment can help to avoid new conflicts between indigenous people and new-comers at the local level in the future.** Fundamental aspects of minorities at the local and regional level would have to be dealt within the framework of a general European charter on minorities. But the specific problem of a **possible switch in the local linguistic and cultural majority** in a specific municipality due to a large number of residents of other Member States who can now participate in this local balloting **must be solved within the general framework of a Charter on Fundamental Rights in the European Union.**

The Union level must show to its Member States and to all its citizens that it follows **universal principles** acceptable by everybody because it follows the ideas of the "categorical imperative" of Immanuel Kant,

'treat your neighbour as you want to be treated by him ''

The target of this new article is to avoid future problems or solve them in advance before they generate linguistic, cultural or ethnic tensions within a multi-cultural society. That this is not a theoretical problem shows the various national derogations or transitional provisions already foreseen (Luxembourg, Belgium, France) as to the Directive on the participation in municipal elections adopted by the Council in 1994.

The main target of this amendment should be therefore, to take away the fear and the possible negative impression that the European integration process, the mobility of people, common citizenship and the voting right of all citizens of the Union at the local level would lead in the medium and long run to a situation where a democratic elected majority decides a change in the linguistic rights and cultural traditions of the indigenous people which live since generation at that place.

Every citizen of the EU should be aware, that besides his individual and collective civic rights which he or she can enjoy everywhere in the Union, he or she also has to accept the rights and obligations coming from the idea of safeguarding public traditions and cultural heritage in an existing local community. (> idea of guaranteeing diversity within unity!)

Detailed argumentation for the amendment:

“RESPECT FOR PUBLIC TRADITIONS AND CULTURAL HERITAGE”

Objective/Targets

The common citizenship and the right of each citizen of the European Union to participate in municipal (local) elections **shall not come out as a threat to the linguistic, cultural and traditional heritage of indigenous people** living at a specific place since generations.

The guarantee of the "four freedoms" within the Union (mobility of people having different cultural and linguistic background, free exchange of goods and services as well as free movement of capital) shall be accompanied by an equivalent guarantee of the language used in public administration and of public cultural traditions at the local level.

Principles

In this context the following principles shall apply:

'The one who moves, whether for professional or for private reasons, has to adapt to the rules and public traditions of the place he or she has deliberately chosen to live.'

(General principle of a multi-national and multi-cultural Community, Union or Federation)

a) All rights and obligations resulting from the present legal situation as to the language(s) used in public administration and as to official contacts with local public authorities should be guaranteed. The same should apply to public cultural and religious events within the local community.

(Status quo principle)

b) Any person who intends to stand as a candidate in municipal elections should have shown in practice (by learning and using, for example, the language(s) in public life) that he or she is ready to integrate in the existing local Community and is going to respect the linguistic and cultural traditions which can be considered as a specific right, heritage or identity of the people living often since generations at that place.

(Principle of good will to integrate).

c) A democratically elected majority, having linguistic and cultural preferences which differ from the legally existing situation in the basic local government unit, can only change the elementary **linguistic rights and cultural traditions in public life** of that place, if the concerned former cultural majority group (historic majority of the concerned political self-governing unit) wants to change the conditions or provisions itself.

(Principle of 'historic' rights/ancienty).

Limitation and Exclusion

Existing **ethnic minorities on the local and regional level are not concerned** with this Charter article; problems in this context should be subject to a general European charter on rights and obligations of local minorities.

Change in the territorial extension of the basic local government unit

A change in the territory of the basic local government unit can have an important impact on the political, cultural and linguistic majority within this unit; therefore, any change in the territorial extension of the basic local government unit, either by means of a fusion of communes, municipalities, town-districts or through a splitting up into smaller political self-governing units, shall not only be subject of a mutual agreement between the old and new political majority groups of the original political unit(s), especially, if they are of different cultural and linguistic background, - but also be the result of applying universal criteria to the local level and of objective indicators guaranteeing a viable local self-government such as common interests and sound financial structures of the old and new basic local government units.

A change in the territorial extension of a basic local government unit should at least take into consideration aspects like guaranteeing democratic representativity and secrecy (anonymity in voting procedures), possibility of realising common cultural and linguistic interests, equal

treatment of new minorities, average size in population and territory of the new political unit within the larger political and administrative context (district, canton, Kreis, county, province, departement, region, Land, etc.), administrative efficiency, financial rentability, economic interdependencies, fiscal solidarity, financial perequat on mechanisms, etc.)

Protection of the local cultural and linguistic heritage

a) The protect on of **cultural traditions** shall include, in particular, the right to maintain publicly decided and/or organized cultural and religious events such as historic commemorations, special cultural and religious holidays, etc. including public subsidies for the conservation of such like traditional cultural heritage.

b) The protect on of **linguistic rights** shall cover, in particular, a language guarantee in local administration, that are **all elementary aspects of official language(s) use in local administration** like documents, announcements, public sessions, official meetings, official contacts between the local authorities and the citizens.

The language(s) used in local administration can be the national-wide spoken language, the regional or even a national-wide minority language spoken by the majority at the concerned place.

In **a cultural and linguistic homogeneous state or country**, the language used in local administration and in official contacts with the local authorities is the language of (the majority of) the population at the concerned place which coincides with the national-wide spoken language;

In the **case of a multi-cultural and multi-linguistic state or country** specific linguistic rules on the basis of the territorial principle do already exist at the regional or local level. Mostly, the official language at the local level with the administration and local authorities is the regional or even local language, or the combination of two languages, the local-majority language and the national-wide language.

In a multi-national and multi-lingual Community like the European Union, for reasons of transparency and efficiency, the following guideline dealing with the relationship between the EU citizen and the public sector should become as a general target (as examples in Switzerland (CH) show):

Uni-lingual administration (protect on of the indigenous people and efficiency), **but a multi-lingual population** (target of integration and respect for cultural diversity within political unity)

Brussel/Bruxelles, 30.5.2000 Michael Cwik
Coordinator of the working Group 3
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**CONCERNING: CHARTER ON FUNDAMENTAL RIGHTS IN THE EU
EU-CITIZENSHIP AND LANGUAGE RIGHTS AND OBLIGATIONS
OF THE CITIZEN**

1. THE CITIZEN AND THE INSTITUTION OF THE EUROPEAN UNION (EU)

THE BASIC PRINCIPLES ARE:

- "All languages of Member States which have been recognized as official languages of the European Union shall be considered as equal as to their official treatment on the Union's level."
- "Local and regional languages within the EU which are recognized by the concerned member state shall be treated on an equal footing by the European institutions when specific activities or information of the Union are foreseen at the place or region concerned."
- "The acceptance of linguistic diversity is the price of democracy within a multi-ethnic community where everyone wants to keep and safeguard his/her cultural and linguistic identity."

RIGHTS AND OBLIGATIONS OF A CITIZEN AND/OR CIVIL SERVANT AS TO EU ACTIVITIES:

1.1. RELATING TO THE **EXTERNAL RELATIONS** OF THE UNION'S INSTITUTIONS

- CONCERNING CORRESPONDENCE OF THE CITIZEN

Any EU-citizen as to the right to address correspondence to an official body or service of the European Union in his mother tongue as far as his language is recognized as official language of the Union; correspondence in other official languages of Member States as to pass the representative bodies of the concerned Member State at the European level.

The correspondence of the institutions of the European Union is done in the official languages of the Union and in particular in the language of the correspondent if this is known. In general and if there is no specific indication the reply of a service of the Union's institution is done in the language of the previous correspondence by the concerned person.

- CONCERNING DECISIONS OF THE INSTITUTIONS AND THEIR PUBLIC INFORMATION

All official decisions taken within the framework of the European Union like regulations directives recommendations court rules etc. are published in the official languages of the Union. Important information topics shall be in all official languages of the Union; publications for a specific public can be made in the language or languages of the audience concerned.

- CONCERNING MEETINGS OF OFFICIAL POLITICAL MANDATEES AT THE EU-LEVEL:

IN OFFICIAL MEETINGS OF THE EU-PARLIAMENT AND THE UNION'S COUNCIL

As neither an elected member of Parliament nor a representative of a government was appointed on the basis of his language knowledge he must on the Union's level have at least the possibility to speak in one of the official languages of the Union and to get the documents to decide over in the official language of his choice.

This is the right and obligation of every political mandatee (directly or indirectly elected) in the European Union.

IN WORKING AND STUDY GROUPS WITH NATIONAL REPRESENTATIVES

As representatives of Member States nominated for experts meetings on the European and international level should be selected on the basis of their professional capacities their linguistic background should be in general already multi-lingual; but as long as there is no decision about a non-discriminatory inter-ethnic communication language or one official working language within the European institutions each representative must have the right to express himself in one of the official languages of the Union.

1.2. RELATING TO THE INTERNAL RELATIONS OF THE UNION'S INSTITUTIONS

- CONCERNING LINGUISTIC PRECONDITIONS TO BECOME AN EUROPEAN CIVIL SERVANT

Any person who is applying to work in the institutions of the European Union has to bring with him an adequate linguistic background; in principle he or she should besides the mother tongue be capable to understand to speak and to write two other languages of which one should be one of the official languages of the Union.

- CONCERNING THE WORKING LANGUAGES WITHIN THE EU INSTITUTIONS

In principle all official languages of the Union can be used as a working language by a staff member. For reasons of cost time and efficiency as to the need of translation in the medium term only one common working language should be foreseen for internal preparatory work within the services and institutions of the European Union; as long as a national language as to fulfill this function and until final acceptance after thorough experiments and tests by the staff and the competent bodies a non-discriminatory inter-ethnic communication language based on a language model (planned language) shall be placed alongside this national language as the second official working language within the EU institutions in order to balance the disadvantages for all those staff members who do have not the national working language as mother tongue. Thus also those speakers who can work in their mother tongue are obliged to learn and at least understand the second non-discriminatory working language.

2. THE CITIZEN AND THE PUBLIC AUTHORITIE IN MEMBER STATE

THE BASIC PRINCIPLE ARE:

- "The one who moves has to recognize the public (cultural and linguistic) traditions of the place where he or she is going to!"
- " It is in the responsibility of the traveler to make himself understood and not an obligation of a public authority or its representative to be able to understand the language of a foreigner at a specific place."
- "Persons employed in public services should get incentives to speak also other languages!"

RIGHTS AND OBLIGATIONS OF A CITIZEN AND/OR CIVIL SERVANT AS TO THE PUBLIC SECTOR:

2.1. IN RELATION TO THE PUBLIC AUTHORITIES IN MEMBER STATES

- WHEN TRAVELING WITHIN MEMBER STATES OF THE EU

Public authorities of Member States are not obliged neither to speak nor to present official documents in another language than the official language at the place concerned. In general it is in the responsibility of everyone to make himself understood in any contact with public authorities although in specific social circumstances the costs of an interpreter or translator might be covered by the public service in question.

- WHEN INVOLVED IN LEGAL PROCEDURES IN MEMBER STATES

Every EU-citizen has the right when being involved in a legal procedure within the territory of the European Union to express himself in the language of his choice; nevertheless if the language chosen by him is neither understood by a competent representative of the legal procedure nor the official language of the place or territory in question all costs of interpretation or translation are at his charge.

- WHEN SETTLING IN WITHIN THE TERRITORY OF A MEMBER STATE

Having the right to travel and to settle without discrimination to a national resident within all Member States of the European Union every citizen of the Union as nevertheless to integrate into the public life of the place of his/her choice in particular as to the official language(s) of administration; although public staff members in specific functions with frequent contacts to clients speaking other languages should in general be multi-lingual public services at the local regional or national level are not obliged for reasons of efficiency to have speakers or documents in a language which is not the official of the place concerned.

2.2. IN RELATION TO LANGUAGE INSTRUCTION WITHIN MEMBER STATES

- CONCERNING PUBLIC SCHOOLS

On the basis of an agreement between the ministers of education within the Member States of the European Union every person leaving school within the EU shall in the medium term be able to master besides his mother tongue two other languages. The languages offered at a specific school are the result of the general educational system of the country or region of the local priorities of the school in question and of the language preferences expressed by the parents of the pupils of the school. Elementary instruction in a mother tongue which is not the official or one of the official languages of the place concerned is subject to democratic decisions in the competent political bodies in particular as to the necessary allocation of the human and financial resources.

- CONCERNING PRIVATE SCHOOLS

Language groups which are speaking other languages than that or those officially instructed in public schools can organize themselves in the framework of the constitution and the educational system of the country or region concerned in private schools on their own expenditures; in order to assure a harmonious integration of these language groups into the local cultural and linguistic environment one official language of the place concerned shall be an obligatory instruction subject of the private schools.

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New .eu Domain

Changed Web and E-Mail Addresses

The introduction of the .eu domain also required the web and e-mail addresses of the European institutions to be adapted. Below please find a list of addresses found in the document at hand which have been changed after the document was created. The list shows the old and new address, a reference to the page where the address was found and the type of address: http: and https: for web addresses, mailto: for e-mail addresses etc.

Page: 1 **Old:** mailto:fundamental.rights@consilium.eu.int
Type: *mailto* **New:** mailto:fundamental.rights@consilium.europa.eu

Page: 10 **Old:** mailto:ael.Cwik@cec.eu.int
Type: *mailto* **New:** mailto:ael.Cwik@ec.europa.eu
