



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Constitutional Affairs

2011/0817(NLE)

14.6.2012

AMENDMENTS

1 - 32

Second Draft report
Andrew Duff
(PE474.039v04-00)

Draft protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic (Article 48(3) of the Treaty on European Union)
(00091/2011 – C7-0385/2011 – 2011/0817(NLE))

AM_Com_NonLegReport

Amendment 1
Morten Messerschmidt

Motion for a resolution
Recital F

Motion for a resolution

F. the Protocols to the TEU and to the Treaty on the Functioning of the European Union form an integral part thereof, ***and therefore an additional Protocol establishing special rules with regard to the application of parts of the law of the Union to a Member State requires a revision of the Treaties,***

Amendment

F. the Protocols to the TEU and to the Treaty on the Functioning of the European Union form an integral part thereof,

Or. en

Amendment 2
Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution
Recital G

Motion for a resolution

G. pursuant to the second subparagraph of Article 6(1) TEU, the Charter does not extend in any way the competences of the Union as defined in the Treaties,

Amendment

deleted

Or. en

Amendment 3
Morten Messerschmidt

Motion for a resolution
Recital G

Motion for a resolution

G. pursuant to the second subparagraph of

Amendment

G. it should be emphasised that, pursuant

Article 6(1) TEU, the Charter does not extend in any way the competences of the Union as defined in the Treaties,

to the second subparagraph of Article 6(1) TEU, the Charter does not extend in any way the competences of the Union as defined in the Treaties,

Or. en

Amendment 4

Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution

Recital H

Motion for a resolution

Amendment

H. pursuant to Article 51 of the Charter, the provisions of the Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. Those authorities must therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties. The Charter does not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined in the Treaties, as confirmed by Declaration No 1,

deleted

Or. en

Amendment 5

Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution

Recital I

Motion for a resolution

Amendment

I. paragraph 2 of Declaration No 53 by the Czech Republic provides that the Charter "does not diminish the field of application of national law and does not restrain any current powers of the national authorities in this field", thereby establishing that the integrity of the legal order of the Czech Republic is guaranteed without having recourse to an additional instrument,

deleted

Or. en

Amendment 6

Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution

Recital J

Motion for a resolution

Amendment

J. on the basis of academic evidence and case-law, Protocol No 30 does not exempt Poland and the United Kingdom from the binding provisions of the Charter, it is not an 'opt-out', it does not amend the Charter and it does not alter the legal position which would prevail if it were not to exist. The only effect it has is to create legal uncertainty not only in Poland and the United Kingdom but also in other Member States,

deleted

Or. en

Amendment 7

Morten Messerschmidt

Motion for a resolution

Recital J

Motion for a resolution

Amendment

J. on the basis of academic evidence and case-law, Protocol No 30 does not exempt Poland and the United Kingdom from the binding provisions of the Charter, it is not an 'opt-out', it does not amend the Charter and it does not alter the legal position which would prevail if it were not to exist. The only effect it has is to create legal uncertainty not only in Poland and the United Kingdom but also in other Member States,

deleted

Or. en

Amendment 8
Rafał Trzaskowski

Motion for a resolution
Recital J

Motion for a resolution

Amendment

J. on the basis of academic evidence and case-law, Protocol No 30 does not exempt Poland and the United Kingdom from the binding provisions of the Charter, it is not an 'opt-out', it does not amend the Charter and it does not alter the legal position which would prevail if it were not to exist*. ***The only effect it has is to create legal uncertainty not only in Poland and the United Kingdom but also in other Member States,***

J. on the basis of academic evidence and case-law, Protocol No 30 does not exempt Poland and the United Kingdom from the binding provisions of the Charter, it is not an 'opt-out', it does not amend the Charter and it does not alter the legal position which would prevail if it were not to exist¹,

Or. en

Amendment 9
Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

¹ Judgment of the Court of Justice of 21 December 2011 in Joined Cases C-411/10 and C-493/10, especially paragraph 120.

Motion for a resolution
Recital K

Motion for a resolution

K. an important function of the Charter is to increase the prominence of fundamental rights and to make them more visible, but Protocol No 30 gives rise to legal uncertainty and political confusion, thereby undermining the efforts of the Union to reach and maintain a uniformly high level of rights protection,

Amendment

deleted

Or. en

Amendment 10
Morten Messerschmidt

Motion for a resolution
Recital K

Motion for a resolution

K. an important function of the Charter is to increase the prominence of fundamental rights and to make them more visible, but Protocol No 30 gives rise to legal uncertainty and political confusion, thereby undermining the efforts of the Union to reach and maintain a uniformly high level of rights protection,

Amendment

K. an important function of the Charter is to increase the prominence of fundamental rights and to make them more visible,

Or. en

Amendment 11
Zita Gurmai

Motion for a resolution
Recital K

Motion for a resolution

K. an important function of the Charter is to increase the prominence of fundamental rights and to make them more visible, but Protocol No 30 gives rise to **legal uncertainty and political confusion**, thereby undermining the efforts **of the Union to reach and maintain a uniformly high level of rights protection**,

Amendment

K. an important function of the Charter is to increase the prominence of fundamental rights **at the level of the European Union** and to make them more visible, but Protocol No 30 gives rise to **misunderstandings**, thereby undermining the efforts **to ensure a high level of rights protection at the level of the Union**,

Or. en

Amendment 12
Rafał Trzaskowski

Motion for a resolution
Recital K

Motion for a resolution

K. an important function of the Charter is to increase the prominence of fundamental rights and to make them more visible, **but Protocol No 30 gives rise to legal uncertainty and political confusion**, thereby undermining the efforts **of the Union to reach and maintain a uniformly high level of rights protection**,

Amendment

K. an important function of the Charter is to increase the prominence of fundamental rights and to make them more visible, **and according to the Commission opinion of 4 May 2012¹ the purpose of Protocol No 30 is to clarify the application of the Charter in relation to the laws and administrative action of Poland and the United Kingdom and of its justiciability within those Member States**,

Or. en

Amendment 13
Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution
Recital L

¹Commission opinion on a draft European Council decision in favour of examining the proposed amendment of the Treaties concerning the addition of a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic (COM(2012)0197).

Motion for a resolution

Amendment

L. if Protocol No 30 were ever to be interpreted as limiting the scope or force of the provisions of the Charter, the effect would be to diminish the protection of fundamental rights afforded to people in Poland, in the United Kingdom and, prospectively, in the Czech Republic,

deleted

Or. en

Amendment 14

Morten Messerschmidt

Motion for a resolution

Recital L

Motion for a resolution

Amendment

L. if Protocol No 30 were ever to be interpreted as limiting the scope or force of the provisions of the Charter, the effect would be to diminish the protection of fundamental rights afforded to people in Poland, in the United Kingdom and, prospectively, in the Czech Republic,

deleted

Or. en

Amendment 15

Zita Gurmai

Motion for a resolution

Recital L

Motion for a resolution

Amendment

L. if Protocol No 30 were ***ever*** to be interpreted as limiting the scope ***or force*** of the provisions of the Charter, the effect would be to diminish the protection of fundamental rights afforded to people in

L. if Protocol No 30 were, ***in a limited number of cases***, to be interpreted as limiting the scope of the provisions of the Charter, the ***only*** effect would be to diminish the protection of fundamental

Poland, in the United Kingdom and, prospectively, in the Czech Republic,

rights afforded to people in Poland, in the United Kingdom and, prospectively, in the Czech Republic,

Or. en

Amendment 16
Gerald Häfner

Motion for a resolution
Recital L a (new)

Motion for a resolution

Amendment

La. Parliament attaches paramount importance to upholding the principle of equality before the law, as enshrined in Article 20 of the Charter, especially where it concerns the protection of fundamental rights,

Or. en

Amendment 17
Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution
Recital M

Motion for a resolution

Amendment

M. the Charter has no effect whatsoever, in terms of Czech, Union or international law, on the validity of the Benes Decrees concerning the expropriation of property after the Second World War,

deleted

Or. en

Amendment 18
Morten Messerschmidt

Motion for a resolution
Recital M

Motion for a resolution

Amendment

M. the Charter has no effect whatsoever, in terms of Czech, Union or international law, on the validity of the Benes Decrees concerning the expropriation of property after the Second World War,

deleted

Or. en

Amendment 19
Morten Messerschmidt

Motion for a resolution
Recital N

Motion for a resolution

Amendment

N. the Czech Constitutional Court dismissed two petitions in 2008 and 2009, finding the Treaty of Lisbon to be fully in accordance with Czech constitutional law,

deleted

Or. en

Amendment 20
Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution
Recital O

Motion for a resolution

Amendment

O. the Czech Parliament ratified the Treaty of Lisbon precisely as it had been signed, without any reservation or qualification whatsoever concerning full adherence by the Czech Republic to the Charter,

deleted

Or. en

Amendment 21

Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution

Recital P

Motion for a resolution

Amendment

P. the Czech Senate, in its abovementioned Resolution 330 of 6 October 2011, opposed the application to the Czech Republic of Protocol No 30 on the grounds that it would reduce standards of protection of fundamental rights and freedoms of Czech citizens. The Czech Senate also questioned the ambiguous constitutional circumstances, in which the matter was first raised by the President of the Republic only after the parliamentary ratification of the Treaty of Lisbon had been completed,

deleted

Or. en

Amendment 22

Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution

Recital Q

Motion for a resolution

Amendment

Q. major doubts exist as to whether there is a majority in the Czech Parliament to ensure ratification of the new protocol aimed at extending the application of Protocol No 30 to the Czech Republic,

deleted

Or. en

Amendment 23

Morten Messerschmidt

Motion for a resolution
Recital Q

Motion for a resolution

Q. major doubts exist as to whether there is a majority in the Czech Parliament to ensure ratification of the new protocol aimed at extending the application of Protocol No 30 to the Czech Republic,

Amendment

Q. the internal Czech political discussion on the matter is not an issue for the Union institutions to judge upon,

Or. en

Amendment 24
Rafał Trzaskowski

Motion for a resolution
Recital Q

Motion for a resolution

Q. major doubts exist as to whether there is a majority in the Czech Parliament to ensure ratification of the new protocol aimed at extending the application of Protocol No 30 to the Czech Republic,

Amendment

Q. major doubts exist as to whether there is a majority in the Czech Parliament to ensure ratification of the new protocol aimed at extending the application of Protocol No 30 to the Czech Republic; ***hence, it would be appropriate to wait until these doubts are resolved,***

Or. en

Amendment 25
Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution
Recital R

Motion for a resolution

R. if the protocol proposed by the Czech government is annexed to the Treaties, the possibility cannot be ruled out that a petition against it will be lodged in the

Amendment

deleted

Amendment 26
Gerald Häfner

Motion for a resolution
Recital S a (new)

Motion for a resolution

Amendment

Sa. Parliament would encourage Member States not to start ratification procedures until the Czech Republic has completed its ratification procedure,

Or. en

Amendment 27
Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution
Recital T

Motion for a resolution

Amendment

T. the linking of the Czech request for the application of Protocol No 30 to be extended to the Czech Republic with the accession of Croatia to the Union could complicate the ratification of the Croatian Accession Treaty,

deleted

Or. en

Amendment 28
Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution
Recital U

Motion for a resolution

U. Parliament, in a spirit of sincere cooperation, is duty bound to give its opinion to the European Council on all Treaty changes proposed, ***irrespective of their significance, but is in no way bound to agree with the European Council,***

Amendment

U. Parliament, in a spirit of sincere cooperation, is duty bound to give its opinion to the European Council on all Treaty changes proposed,

Or. en

Amendment 29

Ashley Fox, Jan Zahradil, Edvard Kožušník, Andrea Češková

Motion for a resolution

Paragraph 1

Motion for a resolution

1. Calls on the European Council to ***decide not*** to examine the proposed amendment of the Treaties;

Amendment

1. Calls on the European Council to examine the proposed amendment of the Treaties ***in order to annex to the Treaty on European Union and the Treaty on the Functioning of the European Union a Protocol on the application of the Charter of Fundamental Rights of the European Union to the Czech Republic;***

Or. en

Amendment 30

Rafał Trzaskowski

Motion for a resolution

Paragraph 1

Motion for a resolution

1. Calls on the European Council to ***decide not*** to examine the proposed amendment of the Treaties;

Amendment

1. Calls on the European Council to examine the proposed amendment of the Treaties, ***in order to annex to the Treaty on European Union and the Treaty on the Functioning of the European Union a***

*Protocol on the application of the Charter
of Fundamental Rights of the European
Union to the Czech Republic;*

Or. en

Amendment 31
Morten Messerschmidt

Motion for a resolution
Paragraph 1

Motion for a resolution

1. Calls on the European Council to decide *not* to examine the proposed amendment of the Treaties;

Amendment

1. Calls on the European Council to decide to examine the proposed amendment of the Treaties;

Or. en

Amendment 32
Zita Gurmai

Motion for a resolution
Paragraph 1

Motion for a resolution

1. Calls on the European Council to decide *not* to examine the proposed amendment of the Treaties;

Amendment

1. Calls on the European Council to decide to examine the proposed amendment of the Treaties *in the light of the considerations expressed above;*

Or. en