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

Committee on Civil Liberties, Justice and Home Affairs

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MOTION FOR A EUROPEN PARLIAMENT RESOLUTION

on fundamental rights in the European Union 2004-2007
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The European Parliament,

- having regard to the Charter of Fundamental Rights of the European Union (hereinafter the Charter) of 7 December 2000, as adopted on 12 December 2007,

- having regard to the objectives of making the Union an area of freedom, security and justice and of implementing the principles of liberty, democracy and respect for fundamental rights and the rule of law, as set out in Articles 6 and 7 of the Treaty on European Union (EU),

- having regard to the innovations to which the governments of the Member States gave their agreement on 13 December 2007 by signing the Lisbon Treaty, the most significant of which are the conferral of binding legal status on the Charter and the requirement to accede to the European Convention on the Protection of Human Rights and Fundamental Freedoms,

- having regard to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin[1] and Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation[2],

- having regard to Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights[3] (hereinafter the Agency),

- having regard to the reports of the Agency, the European Monitoring Centre on Racism and Xenophobia and the non-governmental organisations (NGOs) concerned,

- having regard to the decisions of the Court of Justice of the European Communities and of the European Court of Human Rights,

- having regard to the annual reports on fundamental rights in the European Union drawn up by the European Union's network of independent experts,

- having regard to the reports by the bodies of the Council of Europe, in particular the reports on the human rights situation drawn up by the Parliamentary Assembly and the Commissioner for Human Rights,

- having regard to its resolutions on fundamental rights and human rights,

- having regard to the series of public meetings and exchanges of views organised in preparation for the drafting of this resolution by its Committee on Civil Liberties,

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[1] OJ L 180, 19.7.2000, p. 22.
[2] OJ L 303 2.12.2000, p. 16.
[3] OJ L 53, 22.2.2007, p. 1.

Justice and Home Affairs, in particular those held on 8 October 2007 with constitutional and supreme court judges and on 19 May 2008 with the Council of Europe's Commissioner for Human Rights,

- having regard to Rule 45 of its Rules of Procedure,

- having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Culture (A6-0000/2008),

A. whereas Article 6 of the EU Treaty states that the European Union is based on a community of values and on respect for fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States,

B. whereas the European Parliament, as the directly elected representative of the citizens of the Union, believes it has a clear responsibility to uphold these principles, in particular as the Treaties in their current form greatly restrict the individual's right to bring actions before the Community courts,

C. whereas the introduction of a procedure for monitoring the compatibility of legislative proposals with the Charter is an inevitable consequence of the adoption of the Charter on 7 December 2000, as the Commission acknowledged when adopting corresponding provisions in 2001 and as Parliament pointed out when adopting its resolution of 15 March 2007 on compliance with the Charter of Fundamental Rights in the Commission's legislative proposals: methodology for systematic and rigorous monitoring,

D. whereas the Lisbon Treaty, which is currently undergoing ratification, makes explicit reference to the Charter and confers on it the same legal value as the Treaties,

E. whereas, should the Charter be incorporated into Union primary law, the rights defined therein will acquire binding force by means of the secondary law implementing them,

F. whereas, irrespective of its legal status, the Charter has over the years become a source of inspiration in the case law of the European courts, such as the Court of First Instance and the Court of Justice of the European Communities, the European Court of Human Rights and many constitutional courts,

G. whereas the establishment of a genuine 'culture of fundamental rights' in the Union calls for the development of a comprehensive system for monitoring the application of those rights, encompassing the Council and decisions taken under intergovernmental cooperation, in that the protection of fundamental rights does not consist solely in formal compliance with rules, but above all in their active promotion and in intervention in cases where Member States violate fundamental rights or enforce them unsatisfactorily,

Introduction

1. Considers that the effective protection and the promotion of fundamental rights form the basis of democracy in Europe and are prerequisites for the consolidation of the European area of freedom, security and justice;

2. Deplores the fact that the Member States continue to refuse European scrutiny of their own human rights policies and practices and endeavour to keep protection of those rights on a purely national basis, thereby undermining the active role played by the European Union in the world as a defender of human rights and damaging the credibility of the EU's external policy in the area of the protection of fundamental rights;

3. Points out that, pursuant to Article 6(2) of the EU Treaty, the role of the Court of Justice of the European Communities is to enforce fundamental rights as they result from the constitutional traditions common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms and other instruments of international law;

4. Emphasises that if the constitutional traditions common to the Member States can be drawn on by the Court of Justice as a source of inspiration in the framing of its judicial doctrine on fundamental rights, the Member States cannot use the argument that the Charter would provide a lower level of protection of certain rights than the guarantees offered under their own constitutions as a pretext for watering down those guarantees;

5. Welcomes Article 53 of the Charter, which will enable the Court of Justice of the European Communities to develop its case law on fundamental rights, thereby giving them a basis in law which is vitally important in the context of the development of European law;

General recommendations

6. Takes the view that the practical application of fundamental rights must be an objective of all European policies; takes the view that, to that end, the European Union institutions should actively promote and safeguard fundamental rights and take full account of them when drafting and adopting legislation;

7. Welcomes the setting-up of the Agency, which represents a first step towards meeting Parliament's calls for the establishment of an integrated regulatory and institutional framework designed to put the Charter into effect and guarantee consistency with the system established by the European Convention for the Protection of Human Rights and Fundamental Freedoms; points out, however, that the annual reports on human rights drawn up by the European Network of Independent Experts in Fundamental Rights, published until 2005, scrutinised the application of all the rights recognised by the Charter in each Member State, and is concerned, therefore, at the fact that the Agency's limited remit and the dissolution of the Network may exclude from systematic scrutiny a series of important areas of human rights policy in Europe, in particular anti-terrorist policies, mistreatment and the use of force by the police, the right to a fair hearing, violence against women and trafficking in human beings;

8. Emphasises, as regards the Agency's limited remit, that human rights issues cannot be artificially divided into areas under the first, second or third pillars, as the Member States chose to define the scope of the European Union's powers, because fundamental rights are indivisible and interdependent; regards it as essential, therefore, that the Commission and the Council, working with the Agency, should first of all seek to gain an overview of concerns in the area of human rights in the Member States beyond the strict framework of European rules, without confining themselves to topical issues in the European Union or specific legal and political instruments, identifying recurring and current human rights problems in the Member States and considering all existing mechanisms at international and European level;

9. Calls on the Commission and Council to use the information available as a result of the monitoring carried out within the European Union by the Agency, the Council of Europe, United Nations monitoring bodies, national human rights institutions and NGOs and to translate that information into corrective measures or a preventive legal framework;

10. Reserves the right to follow up the Agency's work in the European Union and to address human rights issues which fall outside the Agency's remit, and calls on the Commission to do the same, in keeping with its role as guardian of the Treaties;

11. Calls on the Council to incorporate in its future annual reports on human rights in the world an analysis of the situation in the world and in each Member State; takes the view that a twin analysis of this kind would highlight the Union's equal commitment to protecting human rights both inside and outside its borders, so as to ward off any accusations of double standards;

12. Calls on the Member States to take measures to endow the national human rights institutions set up under the United Nations' 'Paris principles' with independent status vis-à-vis the executive and sufficient financial resources, taking account, in particular, of the fact that one of these bodies' tasks is to review human rights policies with the aim of identifying failings and suggesting improvements, on the understanding that effectiveness is measured primarily by the way in which problems are prevented rather than simply resolved;

13. Urges the Council to transform its ad hoc working party on fundamental rights and citizenship into a standing working party, which would work in tandem with the Working Party on Human Rights (COHOM), and calls on the Commission to allocate the human rights and fundamental freedoms portfolio to a single Commissioner;

14. Points out that it regards it as essential in political terms to incorporate the idea of promoting fundamental rights among the aims to be pursued when simplifying or restructuring the *acquis communautaire*; calls for every new policy, legislative proposal and programme to be accompanied by an impact assessment concerning respect for fundamental rights and for that assessment to form an integral part of the justification for the proposal;

15. Calls on the Council Presidencies to organise the Forum of Human Rights NGOs so that civil society and the European institutions can hold in-depth discussions of human

rights issues in the Member States; emphasises that this Forum should be open to anyone who wishes to participate;

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

16. Welcomes the prospect of the Union acceding to the European Convention on Human Rights (ECHR), even if that accession will not bring about fundamental changes, given that 'when questions relating to the rights and freedoms enshrined in the ECHR are raised before the Court of Justice of the European Communities, the latter treats the ECHR as forming a genuine part of the EU's legal system'[1];

17. Draws attention to the major role played by the Council of Europe's institutions and monitoring mechanisms and its various conventions in the area of human rights; urges the EU institutions and the Agency to draw on that experience, to take account of those mechanisms by incorporating them into networking procedures and to use the standards developed by the Council of Europe and the other tangible results of its work; calls for the potential offered by the Memorandum of Understanding between the Council of Europe and the European Union to be exploited to the full;

18. Calls for closer cooperation between the various institutions and organisations responsible for protecting fundamental rights, both at European and international levels;

19. Emphasises once again how important it is for the European Union's credibility in the world that it should not practise double standards, i.e. that there should be no disparity between what it preaches to the outside world and what it does within its own borders;

20. Takes the view that, although the European Union is never a party as such, if all its Member States have acceded to conventions or other international legal instruments in the area of the protection of fundamental rights this imposes on the Union an obligation to abide by their provisions and, where appropriate, the recommendations which the bodies they set up issue, provided that Union law does not offer an equivalent or higher level of protection; calls on the Court of Justice to endorse that approach through its rulings;

21. Urges the European Union to conclude cooperation agreements with the international institutions and organisations responsible for the protection of fundamental rights, and in particular with the Office of the United Nations High Commissioner for Human Rights and the other UN bodies which play a role in that area and with the Office for Democratic Institutions and Human Rights and the High Commissioner on National Minorities of the Organisation for Security and Cooperation in Europe;

Human rights and security

22. Emphasises the need to assess and fully respect fundamental rights and individual freedoms as the Union's powers develop; takes the view, on that basis, that a fair

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

balance needs to be struck between individual freedoms and collective security through the implementation of suitable policies, so that the two objectives can be reconciled and individual freedoms are not threatened by a repressive approach;

23. Emphasises the right of any arrested person to be provided with full legal safeguards and, where appropriate, assistance from the diplomatic representation of the country of which he or she is a national and the services of an independent interpreter;

24. Expresses concern at the fact that international cooperation in the fight against terrorism has often served to diminish the level of protection of human rights and fundamental freedoms and takes the view that the EU should act with greater resolve at international level to promote a genuine strategy based on full compliance with international standards and obligations in the area of human rights;

25. Strongly urges the EU institutions and the Member States to implement the recommendations contained in its resolution of 14 February 2007 on the alleged use of European countries by the CIA (Central Intelligence Agency) for the transportation and illegal detention of prisoners[1], the aim of which is to shed light on the role played by the Member States in the illegal practice of extraordinary rendition and to ensure that the Union and the Member States never again become involved in similar breaches of human rights;

Migrants and refugees

Access to protection

26. Expresses shock at the tragic fate of the persons who lose their lives in an attempt to reach European territory; since channels for legal migration to the European Union from third countries are virtually non-existent, migrants are left to the mercy of smugglers or traffickers and/or risk their lives in order to travel to Europe, leading to thousands of deaths each year;

27. Calls on the Commission and the Member States to introduce realistic, long-term migration policies and more flexible rules governing asylum seekers, rather than focusing all their efforts on preventing illegal immigration, deploying to that end a growing range of frontier checks which lack the mechanisms needed to identify potential asylum seekers at Europe's borders, a shortcoming which leads to violations of the principle of non-refoulement, as enshrined in the 1951 Convention on the Status of Refugees;

28. Calls on the Council to clarify the respective roles of FRONTEX and the Member States, given that there is an alarming lack of clarity and transparency regarding the exact extent of FRONTEX's coordinating role and the way in which these operations are conducted, so as to ensure that border checks are carried out in a manner consistent with respect for human rights; takes the view that there is an urgent need to amend FRONTEX's remit to incorporate rescue at sea;

[1] OJ C 287 E, 29.11.2007, p. 309.

29. Calls on the Council and Commission to authorise FRONTEX to establish structured cooperation with the Agency and the United Nations High Commissioner for Refugees (UNHCR), so as to facilitate operations which have implications for the protection of human rights;

30. Condemns the trend towards conducting border checks further and further away from the EU's geographical borders, making scrutiny of what happens when persons seeking refugee status and persons who need international protection come into contact with the authorities of a third country very difficult; reminds the Member States, therefore, that every individual has the right to leave a country, including his or her own, and to seek asylum in another country;

Adaptation of the Dublin system

31. Condemns the practice employed by several Member States, which, by means of procedural restrictions applied to 'Dublin transferees', reject asylum applications lodged *in absentia* or presume that applications have been withdrawn owing to the absence of the asylum seeker, thus depriving what may be a large number of applicants of the opportunity of having the merits of their applications considered or even of lodging an appeal;

32. Calls for the harmonisation at European level of the criteria on the basis of which refugee status is granted, with the aim of equalising rates of recognition of that status across the Member States; notes that the current system is creating an 'asylum lottery' as demonstrated by the way in which rates of recognition of refugee status for similar groups of asylum seekers differ radically from one Member State to another, evidence that, contrary to the EU's stated objectives, not all those who enter Union territory seeking asylum have the same chance of obtaining it;

33. Emphasises that these criteria must reflect high standards, not lowest common denominators, since the ability to receive and protect asylum seekers is an identifying feature of our European societies;

34. Deplores, moreover, the systematic use made by certain Member States of the detention of asylum seekers pending their transfer to the State which is responsible for examining their applications; takes the view that such persons must not be placed in holding centres;

Reception

35. Calls on all the Member States to apply the provisions of the reception directive to 'Dublin transferees' and to excluded areas, such as holding centres and transit zones; emphasises that appropriate reception arrangements are fundamental to the functioning of a fair and effective asylum procedure and that those arrangements must guarantee the well-being and dignity of each individual, so that asylum seekers are physically and mentally capable of dealing with the procedure and the asylum application interviews;

36. Calls on the Member States, which provide little or no practical assistance to asylum seekers, to draw up practical reception arrangements with a view to ensuring that all

applicants are provided with the basic necessities of life and health; condemns the practice of reducing and abolishing basic assistance, such as food, accommodation and emergency health care, for asylum seekers who fail to submit applications promptly;

37. Calls on the Commission to continue to assess the transposition of the reception directive rigorously, particularly as some experts have drawn attention to its non-transposition or partial transposition, a state of affairs which in many Member States is giving rise to practices which fall short of the minimum standards imposed by the directive;

38. Points out that migrants who do not submit an application for asylum must also be received in specific, suitable facilities where they can be informed - with the aid of interpreters and specially trained cultural mediators - of their rights and the possibilities offered by the law of the host country, Community law and international agreements; emphasises that reception facilities must not take the form of detention centres, and certainly not centres where asylum seekers are held with criminals;

Return

39. Reminds the Member States that it is unacceptable to employ procedures at the limits of legality or to withdraw all assistance with the aim of forcing asylum seekers whose applications have been rejected to acquiesce in return procedures or of encouraging them to leave voluntarily;

40. Expresses serious concern at the ever more precarious situation of asylum seekers whose applications have been rejected in Europe as a result of administrative inefficiency, at lengthy asylum procedures, at premature return procedures or returns to unsafe countries, at the increasingly widespread use of detention prior to return, at inappropriate return procedures involving vulnerable individuals, at the withdrawal of welfare assistance in an effort to force applicants to return and at inadequate return procedures;

41. Stresses that individuals should not be repatriated until after fair and comprehensive consideration of their application; takes the view that, where return would be impossible or inhumane because of a critical situation with regard to compliance with human rights in the country of origin, individuals should receive a residence permit allowing them to remain lawfully in the country of residence;

42. Stresses that it is the responsibility of Member States to monitor the living and integration conditions of individuals repatriated to their country of origin and to take measures to provide those individuals with appropriate assistance; regards it as all the more urgent to introduce arrangements to monitor the situation of migrants who have returned to transit countries, in particular to countries which fail to observe human rights;

Detention and readmission agreements

43. Is concerned at the fact that, for several years, there has been an increase in the number of detention centres for foreign nationals in Member States and at their borders; on the basis of a host of reports, including those by delegations from its Committee on Civil Liberties, Justice and Home Affairs, which condemn frequent violations of human rights, calls for the following actions to be taken:

- ensuring access for access for NGOs specialising in protecting the fundamental rights of migrants and asylum-seekers so that their presence at detention centres is enshrined in law and not simply the result of some Member States' good will;

- setting up an independent verification body at European level with responsibility for supervising detention centres as regards protection of human rights;

- asking the Agency, in close cooperation with the Council of Europe, to draw up an annual report analysing the situation of individuals placed in detention centres under the authority of Member States, within or outside their borders, and to submit it to the European Parliament;

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

Discrimination

General observations

45. Stresses the difference between protection of minorities and anti-discrimination policies; considers that equality of opportunity is a fundamental right for all individuals, and not a privilege, and not only for the citizens of a particular Member State; therefore takes the view that all forms of discrimination must be combated equally resolutely;

46. Calls on the Member States and the Commission to act in full on the recommendations of the Agency as set out in Chapter 7 of its first annual report[1];

47. Observes with concern the unsatisfactory situation concerning implementation of anti-discrimination policies and, in this connection, supports the assessment in the Agency's 2008 annual report; presses the Member States which have not yet done so to give tangible expression to implementation of those policies, in particular Directive

[1] 2008 Annual Report of the European Agency for fundamental rights, published on 24 June 2008.

2000/43/EC and Directive 2000/78/EC, and points out that those directives establish a minimum standard and should therefore be the basis on which an exhaustive anti-discrimination policy is built;

48. Calls on the Commission to continue its work with a view to submitting a proposal for a legislative package including the proposal, deferred to date, to extend the scope of Directive 2000/43/EC to all other forms of discrimination, thus implementing Article 21 of the Charter, which provides greater leeway than Article 13 of the Treaty establishing the European Community in that it makes reference to further forms of discrimination: colour, social origin, genetic features, language, political or other opinions, membership of a minority, property and birth; stresses once more that the effect of granting preferential treatment in legislation to particular forms of discrimination is to introduce a kind of hierarchy between them, which should not be the case;

49. Calls on the Commission to involve the Agency in the Community's legislative process on anti-discrimination so as to allow it to play a significant role as a regular source of up-to-date and detailed information of relevance for drafting further legislation, consulting it at the preparatory stage in the process of drawing up draft legislation;

50. Calls on the Council to do its utmost to reach agreement on the Commission proposal for a Council framework decision on combating certain forms and expressions of racism and xenophobia by means of criminal law[1]; points to its opinion of 29 November 2007[2], which endorsed the proposal; calls on the Commission, after consulting the Agency, to propose similar legislation to combat homophobia;

51. Is concerned at the poor level of knowledge of anti-discrimination legislation in the Member States and calls on the Commission and Member States to redouble their efforts to raise that level; stresses the fact, at the same time, that legislation is effective only if citizens have easy access to the courts, since the protection regime laid down by the anti-discrimination directives hinges on initiatives taken by victims;

52. Considers that, over and above legislative tools and the scope for appeals, the fight against discrimination must be based on education, promoting best practice and information campaigns targeting the general public and the areas and sectors where discrimination takes place; calls on national and local authorities to use the educational tools produced by the Agency and the Council of Europe when carrying out educational and anti-discrimination policy promoting measures;

53. Stresses that the notion of positive discrimination, which is an acknowledgement of the fact that in some cases effective action to combat discrimination requires active intervention by the authorities to restore balance where it has been seriously compromised, cannot be reduced to the notion of quotas; stresses that such actions can in practice be highly diverse, e.g. guaranteeing recruitment interviews, priority access to training leading to a job in areas where particular communities are under-represented, priority information on job offers for particular communities, and taking account of professional experience rather than qualifications alone;

[1] 11522/2007 - C6-0246/2007 - 2001/0270(CNS).
[2] A6-0444/2007.

Minorities

54. Observes that the recent EU enlargements have added close to one hundred minority population groups to the fifty or so which existed when there were 15 EU countries, and stresses that because of the low percentage of resident immigrants, refugees and foreign nationals from third countries and the more visible presence of indigenous 'traditional' minorities in Central and Eastern European Member States, migration and integration policies have been hived off there from policies on minorities;

55. Stresses that there is no common criterion for national minorities' rights in Community policy and that there is no common EU definition either of membership of a national minority; recommends that such a definition be laid down at European level on the basis of Council of Europe Recommendation 1201 (1998);

56. Considers that special attention should be paid to linguistic minority groups and calls on the Commission and Member States to treat them in accordance with the principles set forth in the European Charter of Regional and Minority Languages;

57. Considers that stateless persons permanently resident in Member States are in a unique position in the European Union, given that some Member States impose unwarranted demands on them or demands which are not strictly necessary, thus discriminating against them by comparison with citizens belonging to the majority community; calls therefore on all Member States concerned to ratify the United Nations Convention as relating to the status of stateless persons and on the reduction of statelessness (1954, 1961); calls on the Member States concerned which regained their independence in the 1990s to treat all persons previously resident in their territory in the same way as the majority communities, and calls on them to systematically bring about just solutions, based on the recommendations of international organisations, to the problems encountered by all victims of discriminatory practices;

58. Considers that traditional national minorities urgently need a tailored political framework for their effective involvement in the decision-taking processes affecting them and that they must be protected through various forms of self-government and autonomy in order to overcome the divergent approaches in this connection which nowadays dominate in the Member States;

Roma

59. Considers that the Roma community needs special protection, since, following enlargement of the Union, it has become one of the largest minorities in the EU; stresses that that community has been marginalised, historically, and prevented from developing in particular key areas because of discrimination and exclusion problems which have become more and more acute;

60. Takes the view that the social marginalisation of, and discrimination against, Roma communities is an established fact in spite of the legal, political and financial instruments introduced at European level to combat this; notes that the Union's and

Member States' piecemeal and uncoordinated efforts have not succeeded, to date, in making structural and lasting improvements to the situation of the Roma, in particular in crucial areas such as access to education, housing and employment, a failure which is now publicly acknowledged;

61. Deplores the lack of a global and integrated EU policy specifically targeting discrimination against the Roma in order to deal with the priority problems they are encountering, as recorded by a number of mechanisms for verifying human rights compliance, including the Commission's pre-accession assessment, the judgments of the European Court of Human Rights and the Agency's reports; asserts that it is the collective responsibility of the Union to provide a response to these problems, which constitute one of the most far-reaching and complex human rights issues and that it must resolutely tackle this;

62. Stresses the need for a global, human rights based approach to non-discrimination reflecting the European dimension of discrimination against the Roma; takes the view that a European Union framework strategy for Roma inclusion should seek to tackle the following problems:

- segregation of the Roma as regards access to housing, and their exclusion from employment and public education, in particular through the imposition of schooling criteria designed for pupils with a mental disability or the establishment of special schools or classes for Roma children, often on the pretence that this serves their own cultural identity,

- frequent denial of their rights by public authorities and their political under-representation,

- the very inadequate guarantees against racial discrimination at local level and too few appropriate integration programmes; blatant discrimination in health care, including forced sterilisation and a lack of appropriate information on family planning and access to contraception,

- discrimination by the police, in particular (deliberate) shootings, arson, assault or other violent acts, which are not impartially investigated and prosecutions are not brought; the police's racial profiling and wide discretionary powers, which give rise to abuses with no disciplinary consequences; training and awareness-raising programmes on non-discrimination by the police, which are largely non-existent;

Women

63. Calls for special attention to be given to the situation of women belonging to ethnic minorities and to immigrant women, since their marginalisation is made worse by multiple discrimination both within and outside their own communities; recommends the adoption of national integrated action plans so as to deal effectively with multiple discrimination, especially where different organisations address discrimination issues within a particular state;

64. Stresses that, although progress has been made on the employment of women and despite their high level of education, they continue to be paid less than men for the same work and under-represented in decision-taking positions and continue to be regarded with suspicion by employers owing to pregnancy and maternity;

65. Calls on the Member States and social partners to take the necessary measures to combat sexual and psychological harassment at the workplace;

66. Stresses the need for women to be supported in their careers; presses the Commission and Member States to promote both shared parental leave and paternity leave, and to mutualise the cost of maternity and parental leave so that women no longer represent a workforce which is more costly than men;

67. Calls on the Member States to combat, jointly with the social partners, discrimination against pregnant women on the labour market and take all necessary measures to ensure a high level of protection for mothers; calls on the Commission to make a more detailed assessment of compliance of national provisions in this area with Community law and, where necessary, to make any appropriate proposal to revise Community legislation;

68. Draws attention to the many partners (mainly women) of self-employed persons (chiefly in agriculture) whose legal status is uncertain in many Member States, which may give rise to specific financial and legal problems concerning access to maternity leave and sick leave, accumulation of pension entitlements and access to social security, as well as in the event of divorce;

69. Stresses the importance of ensuring that third-country nationals entering European Union territory are aware of the existing laws and social agreements on gender equality in the society of host countries, so as to rule out discriminatory situations resulting from a lack of awareness of the legal and social context;

70. Calls on the Member States to disallow invoking custom, tradition or any other religious consideration to justify any form of violence against women or the adoption of policies which might put their lives in danger;

Sexual orientation

71. Condemns the discriminatory comments against homosexuals by political or religious leaders, even when they are subsequently withdrawn, since they fuel hatred and violence, and calls on the respective governing bodies to condemn them;

72. Welcomes the publication of the first thematic report by the Agency, drawn up at Parliament's request, on 'homophobia and discrimination on grounds of sexual orientation in the EU Member States';

73. Reminds all Member States that, in line with European Court of Human Rights case law, freedom of assembly may be exercised even if the opinions of those making use of that right go against the majority, and that, accordingly, a discriminatory ban on marches and any failure to meet the requirement to give appropriate protection to those taking part breach the principles guaranteed by the European Court of Human Rights;

74. Presses the Commission to submit proposals ensuring that Member States apply the principle of mutual recognition for homosexual couples, whether they are married or living in a registered civil partnership, in particular when they are exercising their right to free movement as derived from EU law;

Xenophobia

75. Presses the Council and Commission, and the various levels of local, regional and national government in the Member States, to coordinate their measures to combat anti-semitism and attacks against minority groups, including the Roma and third-country nationals in Member States, so as to enforce the principles of tolerance and non-discrimination and to foster social, economic and political integration;

76. Presses the Member States to resolutely prosecute any expression of hatred in racist media programmes and articles propagating intolerant views, in the form of hate crimes against Roma, immigrants, foreign nationals and other minority groups, or by bands and at neo-Nazi concerts, which can often take place in public without any repercussions;

The elderly and disabled

77. Calls on the social partners to make a substantial effort to eliminate discrimination on grounds of disability or age and to radically improve access for the elderly and disabled to the labour market and to training programmes;

78. Considers that it is the responsibility of the Member States to make sure that anyone who needs geriatric care or care to treat an illness or invalidity should have access to high-quality care and treatment;

Armed forces

79. Points out that fundamental rights do not stop at barrack gates and that they also fully apply to citizens in uniform, i.e. armed forces personnel;

80. Recommends that all Union Member States guarantee their military personnel the right to establish and join, and participate actively in, professional associations and to negotiate collectively in order to defend their social interests;

81. Calls on the Member States to grant their military personnel on active service the right to stand for election and join democratic political parties;

82. Recommends that the Member States set up an independent civil institution - an 'ombudsman' - whose principal task would be to ensure that fundamental rights are observed in the armed forces;

Integration

83. Observes that the growing migration by European Union citizens within the Union could require a new approach by local and regional authorities to minority groups not previously present in their territory in large numbers, and therefore calls for the development of integration programmes designed to prevent potential tensions between

intra-Community migrants and indigenous communities in the context of post-enlargement migration;

84. Calls for greater coordination of national policies for integrating third-country nationals and of European initiatives in this area; stresses that common basic principles for a coherent European framework in this connection should ensure that integration policy encompasses, but also goes beyond, anti-discrimination policy and extends to a variety of areas, such as employment and education;

85. Considers that the most urgent need of minorities of immigrant origin is to integrate as soon as possible into the society of the country in which they are resident, including through greater simplification of the relevant countries' naturalisation procedures, while ensuring that integration does not become unwanted assimilation or, conversely, undermines the group identity of persons already living in their territory; considers that it is equally important to recognise the right of each person who is born and lives in a Member State to have access to civil rights concerning citizenship, even in instances where an individual is unable or unwilling to become naturalised;

86. Is concerned that the lack of effective integration policies is causing the exclusion of hundreds of thousands of non-nationals and stateless persons from working life, society and politics;

Statistics gathering

87. Considers that, without prejudice to cultural, historical or constitutional considerations, it is essential to gather data on the situation of disadvantaged minorities and groups, as has been underlined by the successive reports by the European Monitoring Centre on Racism and Xenophobia and the Agency, since, without official statistics on ethnic and national origin, and on religion, it will be difficult to paint a genuine picture of discrimination and of the success of policies to combat it, whereas it is an essential requirement for establishing an exhaustive non-discrimination strategy;

88. Calls on the Member States to publish detailed statistics on racist crimes and to conduct investigations into crime and/or victims with a view to gathering comparable statistics on the victims of those crimes;

Freedom of expression

89. Champions freedom of expression as a fundamental value of the European Union; considers that it must be exercised within the constraints of legislation, co-exist with personal responsibility and be based on respect for others' rights and sensibilities; acknowledges that balancing those demands must be democratically debated on a permanent basis;

90. Welcomes the overall satisfactory situation with regard to press freedom in the Member States, given that 25 of them are among the top 50 in the World Wide Press Freedom Index 2007 produced by Reporters Without Borders, Bulgaria and Poland being ranked 51st and 56th respectively;

91. Calls on the Member States which over the last few years have used their judicial institutions to violate the right of reporters to confidentiality of sources, to improve their legislation and their practices in keeping with the European Court of Human Rights judgment of 27 March 1996 and the Recommendation of the Committee of Ministers of the Council of Europe on the right of journalists not to disclose their sources of information[1], since violation of that right is nowadays the greatest threat to reporters' freedom of expression in the EU and there has been no significant improvement in this situation over the last few years;

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

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

Rights of the child

Violence, poverty and work

94. Condemns all forms of violence against children, and stresses in particular the need to combat the forms of violence most frequently encountered in the Member States: sexual abuse, domestic violence, corporal punishment in schools and other forms of abuse in institutions; calls for reliable, confidential, accessible mechanisms to be put in place to allow children in all the Member States to report violence, and for those mechanisms to be given wide publicity;

95. Calls on the Member States to implement drastic measures to forbid the various forms of exploitation of children, including for the purposes of prostitution, drug trafficking, pickpocketing and begging, and any other form of exploitation;

96. Calls on the thirteen Member States that have no legislation totally banning corporal punishment to forbid this most widespread form of violence against children, in accordance with the 2006 United Nations report on violence towards children;

97. Stresses the need to ensure that all policies, at both EU and national level, take account of eliminating child labour in all its forms; takes the view that full-time education is the best way of solving the problem, both in terms of preventing such abuse and of breaking the vicious circle of illiteracy and poverty in the future;

[1] Recommendation R (2000)7.

98. Notes that in some Member States thousands of children are engaged in the worst forms of work in urban and rural areas, and calls on the Member States in consequence to confront this problem head on by rigorously applying their national laws and organising national education campaigns targeting both parents and children;

99. Recalls that almost 20% of children in the EU live beneath the poverty threshold and that the most vulnerable of them come from single-parent families and/or have parents who were born abroad; stresses in consequence that appropriate assistance measures, centred around the needs of the child, must be taken, including support measures for families, and calls on the Member States, particularly those with the highest levels of poverty, to adopt ambitious, achievable targets for reducing child poverty;

100. Calls on the Commission to make efforts to incorporate all the various strategies specifically relating to child poverty, youth unemployment and social inclusion of minorities in all the relevant development policies, including the Strategy Documents on poverty reduction and the indicative programmes;

Discrimination

101. Asks the Commission and the Member States to pay particular attention to the various forms of discrimination affecting children, which often take multiple forms and are experienced in particular by street children from ethnic minorities and migrant groups, as well as children with disabilities, and lead to their being debarred from education and healthcare;

102. Asks for Roma children, particularly – but not exclusively – in the Member States where the Roma constitute large ethnic minorities, to be covered by specific measures with a view to putting an end to the discrimination, segregation, and social and educational exclusion of which they are often victims; calls in particular on the Member States to make efforts to put an end to the – entirely unjustified – overrepresentation of Roma children in institutions for the mentally handicapped, to organise campaigns promoting school attendance and to work against the phenomenon of being refused an identity card which is encountered by many Roma children;

103. Urges the Member States to put an end to all restrictions on the right of parents to have contact with their children as a result of differences of nationality, particularly in relation to the choice to speak a language other than the official language of a given country, in so far as such practices run counter to the interests of the child concerned and constitute discrimination against parents and children on grounds of language;

Children of migrants, asylum seekers and refugees

104. Asks that particular attention be paid, in the best interests of the child, to the situation of refugee, asylum seeker and immigrant children, and to the children of parents who are asylum seekers, refugees or undocumented, so that every child can fully exercise its rights, particularly the right to education; condemns the development in some Member States of a two-tier education system and different care and assistance arrangements for children of nationals and non-nationals;

105. Asks for special attention to be given to unaccompanied minors arriving on EU territory via unlawful immigration and points out that international child protection standards are applicable to them; calls on all authorities – local, regional and national – and on the European institutions to put every effort into cooperating to protect these minors, including by improving reception conditions, setting up dedicated public reception centres where they can receive education and training, particularly in the official language of the host country, vocational training and complete integration into the education system, and by implementing asylum procedures that take account of children;

106. Recalls that administrative detention of children should not exist and that children accompanied by their families should be detained only in truly exceptional circumstances, for the shortest time possible and only if such detention is in their interest, in accordance with Article 37(b) of the International Convention on the Rights of the Child;

Justice for young people

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

108. Notes that the age of criminal responsibility is not the same in all the Member States and is concerned at the fact that in some of them children regularly appear before adult courts and in others the special youth courts are closed; calls on the Member States to bring their judicial systems into line so that no child is ever tried in the same way as an adult;

109. Calls on all the Member States to provide effective, independent representation for children in all judicial or semi-judicial procedures pertaining to them, and to ensure that all children are assigned a guardian *ad litem* if no member of their family can act on their behalf; stresses that all children, including those placed in judicial care facilities, should be informed by the authorities of the existence of complaints mechanisms;

Assistance for children

110. Calls on the Member States to take action to guarantee the right of children to a family and to act accordingly to find effective solutions to prevent abandonment of children; calls on them to move away from the policy of large institutions and instead to reform, develop and reinforce effective alternative child-care structures based on the family and the community; calls on the Commission to study and propose a common definition of international adoption and an EU policy in this area;

111. Urges the Member States to take the necessary measures to provide high-quality care structures for children, including continuing vocational education, good working conditions and a decent wage for childcare professionals; stresses that such structures and their staff provide children with solid structures for their future and also benefit

their parents, particularly those whose workload is very heavy or who are single parents, and that they also provide an alternative for children whose family structures are inadequate or non-existent;

112. Notes that availability of childcare for infants in the form of collective institutions (crèches, schools) is one of the best ways of solving the problem of work-life balance and of guaranteeing at an early stage in the child's development that it enjoys equality of opportunity and becomes socialised;

Participation

113. Recalls that children have a right to express their opinion, in a way appropriate to their age and level of maturity, and that they must be given the opportunity to belong to a children's group or association where they will meet other children and learn to express themselves in this setting; calls in consequence on the Member States and local authorities to encourage projects designed to give children the chance to express themselves in this way in the context of local children's councils or parliaments, while ensuring that the most excluded children can take part in these and that information about their activities is widely distributed among children;

114. Welcomes the fact that the Commission has set up a Forum bringing together representatives of the European institutions and national and international organisations working in the area of children's rights; takes the view that children's participation should be one of the main objectives of the Forum, and calls on the Commission in consequence to ensure that children participate at every stage of the Forum's activities;

115. Takes the view that it is important that information on children's rights should be made available to them in an accessible manner and by appropriate means; calls on the Commission to develop effective communication tools which will improve children's awareness of their rights, of the situation of children in the Member States and of the activities of the European Union in this area;

Social rights

116. Takes the view that poverty and social exclusion can only be combated by guaranteeing the economic and social rights of everyone; approves in this context the decision to make 2010 the European Year for Combating Poverty and Social Exclusion; calls on the Commission and the Member States to agree on and pursue ambitious objectives in this area;

117. Stresses that there is a set of indivisible, interdependent fundamental rights which all human beings must be guaranteed in order to protect their dignity and to ensure that they are in a position to exercise their responsibilities;

118. Calls on those Member States which have not yet ratified the European Social Charter as revised by the Council of Europe to do so without delay;

119. Calls on the Commission and the Member States to take measures to guarantee that all citizens and residents living or working in another Member State can enjoy the full exercise of their social rights;

Poverty

120. Stresses that the growing importance given to policies of 'active inclusion' of those furthest away from the employment market should not lead to the fundamental right to an adequate minimum wage again being put at risk;

121. Hopes for genuine integration of the social dimension into all EU policies;

122. Expreses its commitment to a sustainable social development model that is consistent with an approach based on social rights aimed principally at social cohesion;

123. Calls for the establishment of instruments at European level designed to endow the Member States with a high level of social standards guaranteeing access for all to decent levels of income and high-quality general-interest services;

124. Takes the view that universal access to general-interest services, including affordable energy, is an important social right;

125. Recalls that action to combat poverty must be taken in partnership with the most disadvantaged population groups, who are the most closely concerned and hence in the best position to report on the consequences of not having access to rights and to suggest remedies; wishes to see a participative democracy which pays special attention to participation by people faced with poverty, exclusion, discrimination and inequality;

Health

126. Emphasises that the main role in any system of health care or long-term care must be played by the individual as beneficiary of the services and consumer of the care, and that the individual's rights take priority over the profitability of public health services;

127. Confirms its commitment to the three basic objectives which should underpin healthcare services in the European Union: universal access without reference to income or wealth, high quality, and long-term financial viability; calls on the Member States to make these priorities explicit and to ensure that the objectives are mutually compatible;

128. Stresses that some Member States are raising the proportion of healthcare costs borne by patients, and calls against this background for disadvantaged groups to continue to have free access to adequate healthcare; insists that universal cover must be based on solidarity and provide a safety net against poverty and social exclusion, benefiting in particular those who are on low incomes and those whose state of health requires long or expensive intensive care, including palliative care and end-of-life care;

129. Is concerned by the fact that in many Member States, waiting times for certain kinds of treatment are too long; calls on those Member States to make targeted efforts to solve this problem;

130. Calls on the Member State governments to encourage coordination of preventive healthcare programmes aimed at various age groups and, as a priority, covering health promotion and education, and to give visibly higher priority to prevention in the use made of healthcare services;

Housing

131. Notes that housing is increasingly becoming a marketable commodity in Europe, causing constant, disproportionate price rises and thus excluding many people from the property market and violating their right to decent housing, which is after all a pre-condition for exercising other fundamental rights and taking a full part in society;

132. Takes the view that the lack of decent, affordable housing in all the Member States is a factor which leads people into poverty and keeps them there; calls on the Commission, given the vital role of housing in social inclusion policies, to assist the Member States with improving their social housing systems;

133. Is convinced that it should be made possible to claim the right to adequate housing in court, and therefore calls on the Member States to adopt constitutional and other legislative measures clearing defining the tasks and responsibilities of the national and local authorities in this area and using recent developments in France and Scotland as examples of best practice;

134. Calls on the Member States to put in place housing strategies with well-defined objectives, priorities and budgets which take account of the minimum requirements set out in the 'Viewpoint' entitled 'No one should have to be homeless – adequate housing is a right' published in October 2007 by the Council of Europe's Commissioner for Human Rights;

Workers

135. Stresses the need to improve transparency in the labour market in such a way that all work (temporary, permanent, full-time, part-time or casual) is declared, decently paid and fully compliant with workers' rights;

136. Asks the Member States and the Commission, when they draw up new proposals in these areas, to bear in mind that existing workers' rights should be supplemented with new rights, such as the right to lifelong training and learning, and to implement specific measures adapted to local situations in order to guarantee employability for all in a changing work environment;

137. Recognises that the minimum wage is very low or beneath subsistence level in many Member States, and therefore takes the view that a methodology for setting the national minimum wage must be put in place at European level in order to guarantee that all workers in the EU are paid a wage that covers their basic needs;

138. Urges the Member States and candidate countries to ratify and implement fully the International Labour Office (ILO) conventions, which that organisation has declared to

be up to date; asks the Commission and the Member States to support the ILO in strengthening its control system and mechanisms;

139. Encourages businesses to adopt responsible, non-discriminatory recruitment and career development policies in order to stimulate employment for women and disadvantaged people on the employment market;

140. Calls on the Member States to agree on a common definition of forced labour and exploitation of vulnerable workers so as to reduce the ambiguity of certain court judgments;

141. Calls on the Commission and the Member States to propose strategies with the aim of offering high-quality employment to the people who are furthest from the employment market and to tackle the reality of 'poor workers'; takes the view that such strategies should address the issues of fair wages, work-life balance, good working conditions and job security;

Irregular employment

142. Calls on the Member States to ratify the United Nations Convention on the Rights of Migrant Workers[1], and draws their attention to the fact that most people who work without being in possession of the appropriate immigration documents are doing work which is legal and essential to Europe's economies, such as fruit picking, construction or maintenance work, and care of the sick, the elderly and children; calls on the European institutions and Member States to stop using the term 'illegal immigrants', which has very negative connotations, and instead to refer to 'irregular/undocumented workers/migrants';

143. Reiterates that labour law is there to protect workers who find themselves in unfair employment situations, which is precisely the situation of undocumented workers, and calls on the Member States to safeguard the right to trade-union membership for all workers, whatever their status, by ensuring that their legislation guarantees it and does not exclude undocumented workers from exercising the right to belong to a trade union;

144. Calls on the Commission to give the same priority and urgency, by treating them as a single package, to 'combating employment of irregular workers from third countries' and the immigration policy currently under development, which includes facilitated entry for highly qualified and seasonal workers;

145. Stresses that the first task of employment inspectors is to protect workers, and not to apply immigration laws, and calls in consequence on the Member States to:

– separate issues of immigrants' status from workplace inspections and ensure that undocumented workers can safely file a complaint against an exploitative employer without being threatened with expulsion;

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

– invest in training of employment inspectors and those who offer assistance to undocumented workers about possible ways to file an official complaint against labour law infringements,

– establish a system of sanctions which does not penalise workers instead of employers,

– adopt legislation that places the burden of proof with employers where they are suspected of employing an irregular worker and not paying a decent salary or contributing to taxes and social security payments,

The elderly

146. Takes the view that the ageing population constitutes a challenge and must be seen as an opportunity to involve people with long and valuable experience more closely in society and business, thus helping to promote active ageing;

147. Takes the view that particular attention must be paid to elderly women living alone, who form a particularly vulnerable group and are often the first to sink into poverty when there is an economic downturn;

148. Recommends to the Member States that they put in place routine medical examinations for the elderly with a view to preventing a deterioration in their quality of life and, where possible, long-term hospitalisation, and give precedence, where possible, to nursing care in the home;

* * *

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