

# **FUNDAMENTAL SOCIAL RIGHTS IN THE EUROPEAN UNION**

## **COMPARATIVE TABLES AND DOCUMENTS**

Revised and updated version

edited by

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## **Introduction**

At European level, there exists a longstanding discussion about the establishment of citizens' fundamental social rights as a constitutional element of the European Union. The ETUC has clearly played a significant role in this debate. In this connection reference should be made, among other things, to the 1999 ETUC Congress Resolutions as well as several ETUC Executive Committee Resolutions.

In 2000, a new stage in the discussion was reached with the adoption in Nice of the EU Charter of Fundamental Rights. The question of its eventual legally binding character is currently being discussed within the so-called Convention on the Future of Europe.

The purpose of this report – an updated version of a previous ETUI report on the subject published in 1998 – is to provide a comparative overview of existing provisions regarding certain selected social items which can be found in (1) international instruments of the United Nations, and the ILO in particular, (2) instruments of the European Union and the Council of Europe, (3) the Constitutions of the 15 EU Member States and (4) the constitutions of all 13 EU applicant countries (contrary to the 1998 report which incorporated only the constitutions of the 10 Central and Eastern European applicant countries)<sup>1</sup>. In particular, the authors have also added references to the UN Convention on the Rights of the Child, the ILO Philadelphia Declaration and the Declaration on Fundamental Principles and Rights at Work, some additional Protocols to the European Convention on Human Rights of the Council of Europe as well as the EU Treaties and the EU Charter of Fundamental Rights as adopted in 2000.

The first part of this report consists of comparative tables of the three levels (international, European and national). The second part contains all the instruments and provisions referred to in the tables. As for the instruments of the International Labour Organisation and the Council of Europe, an additional table, indicating whether and, if so, when the EU Member States and applicant countries signed and/or ratified these instruments, is provided at the end of these sections.

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<sup>1</sup> For the text of these constitutions, major use was made of the website of the International Association of Constitutional Law (ICL) available at: <http://www.uni-wuerzburg.de/law/>

## Remarks

For a good use and reading of this report, the following remarks have to be taken into account.

Not all fundamental social rights have been covered by this report, for reasons which include the following:

- (1) The selection of the social items covered in this report is based on the analysis of five documents: (1) the Community Charter of Fundamental Social Rights of Workers, (2) the European Social Charters of the Council of Europe (1961/1996), (3) the eight fundamental conventions of the ILO, (4) the report of the so-called *Comité des Sages* “For a Europe of Civil and Social Rights” (1996) and (5) a study by D. Ziskind entitled *Labor provisions in the Constitutions of Europe*<sup>2</sup>. By definition, any selection entails exclusion. In addition, fundamental rights, and in particular social rights, are constantly evolving. They are not immutable but evolve for various reasons such as a new or fuller understanding of the individual of his rights; developments in economy, technology, scientific knowledge and not least in society itself. In this sense, the authors “updated” the list of rights and incorporated, amongst others, the following: reconciliation of work and family life, including parental leave and childcare rights; the freedom of business; right to privacy and data protection; the right to housing; and the right to education as a broader category and heading for vocational training.
- (2) Some important instruments have perhaps not been taken into account. For instance, for the instruments at national level, it was not always possible to gain an overview of the national fundamental laws, which exist alongside the constitution, and which have constitutional value and could thus contain some of the fundamental rights described in this report. Where possible these fundamental laws are mentioned and analysed.
- (3) The instruments described were analysed in a very literal way without taking into account the official interpretations and existing case law. An in-depth analysis of these interpretations and case law could thus also reveal other fundamental (social) rights or principles derived from the ones contained in the different instruments.
- (4) In the column on “Labour/ Employment” a reference is made to provisions dealing with social and/ or employment policy. Although these provisions seldom contain a fundamental right, they were mentioned to gain an impression of the national approach to this policy, which can sometimes explain why and how certain rights are guaranteed and others are not.
- (5) As for the topic “non-discrimination”, a distinction is made between three columns. In the column “non discrimination” reference is made to the provisions which stipulate that the Member State is putting equality forward as one of the basic principles of its society. The column “general provision” deals with provisions in the sense of “everybody is equal”. The column “specific provisions” contains references to articles on equality in specific areas or abolition of non-equality on the ground of certain distinctions such as race, nationality, sex, etc. As for the distinction between men and women, specific columns were created under the section “Protection of specific groups – Women”.

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<sup>2</sup> D. Ziskind, *Labor provisions in Constitutions of Europe*, Litlaw Foundation, Los Angeles, California, USA, 1985, 95 pp.

- (6) In the section on “Migrant workers” no reference is made to the constitutional provisions guaranteeing free movement for nationals. Some constitutions also provide a guarantee of (social) protection of their citizens when they go abroad; this was also not taken into account. It also has to be pointed out that some of the analysed instruments provide no specific protection for migrant workers or foreigners in general. Whether or not they are covered by the scope of the instrument depends either on the definition used ( in the sense of “Everybody shall have”) or on the interpretation and case law. If the scope does indeed cover migrant workers/foreigners this will be marked with an (•).

During the research, in particular on the Constitutions of the 15 EU Member States and the EU applicant countries, some problems arose.

- (1) Some constitutions contain provisions on the basis of which the enjoyment of the fundamental rights can be restricted or even suspended. These provisions were also not mentioned.
- (2) In several constitutions a right to free choice of occupation is foreseen, but alongside this right many of the constitutions also contain provisions restricting entry to a post in the public sector (which is in some cases allowed on the basis of Art. 48(4) of the Treaty of the European Union) and thus form a restriction on this right of free choice of occupation. The latter provisions were however not mentioned in the tables. On the contrary and as mentioned under the influence of the EU charter of 2000, the authors added the right or freedom to conduct a business.
- (3) A change was also made concerning “the right to lock out” which is now changed into the heading “lock out” under which references are included to both the right to lock out and the prohibition of lock out.
- (4) In the constitutions of the Federal states (such as Belgium, Germany, etc.) provisions are foreseen which deal with the division of powers, including those in the social field, between the federal and the regional authorities. Again these provisions have not been mentioned in the tables even if they deal with the selected social items.
- (5) In the column on the UK no references are given because there is no constitution. In the absence of an explicit enumeration of social rights in UK law, the majority of social rights are found in statutes. There are no rights in relation to: a right of trade unions to strike or to equality, minimum or sufficient wage, workers’ participation, a right to work. There are minimum or basic rights to the following: training (particularly for the long-term unemployed and school-leavers), holidays, collective bargaining, relief from extreme poverty, legal aid, housing, protection of family, children, the elderly, the disabled. There are full social rights covering the following: non-discrimination on grounds of sex, race or religion, equal pay, unemployment benefit or income support, social security for all persons, health protection, protection abroad, protection from unfair dismissal or redundancy.

Other specific remarks will be given in footnote under the table in question.

## **CONCLUSION**

Although this report is the result of an in-depth and extensive research, the authors are well aware that it is not complete and perhaps not fully accurate.

The ETUI very much hopes, however, that this report can be a useful working tool for everybody with an interest in the subject and that it may form a basis for further research on the crucial subject of fundamental social rights in the EU. The ETUI also hopes that this report may even contribute to the ongoing development of a genuine fundamental social rights policy at European level and within the European Union in particular.

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## LIST OF ABBREVIATIONS AND REFERENCES

### I. TABLES ON UN AND ILO

#### UN

- UDHR:** Universal Declaration of Human Rights (1948)  
**ECOSOC:** International Covenant on Economic, Social and Cultural Rights (1966)  
**CIPOL:** International Covenant on Civil and Political Rights (1966)  
**CERAD:** Convention on the Elimination of all Forms of Racial Discrimination (1965)  
**CEDAW:** Convention on the Elimination of all Forms of Discrimination against Women (1979)  
**CRC:** Convention on the Rights of the Child (1989)

#### ILO Conventions

- PhD:** Philadelphia Declaration (1944)  
**C 29:** Forced Labour Convention (1930)  
**C 87:** Freedom of Association and Protection of the Right to Organize Convention (1948)  
**C 98:** Right to Organize and Collective Bargaining Convention (1949)  
**C 100:** Equal Remuneration Convention (1951)  
**C 105:** Abolition of Forced Labour Convention (1957)  
**C 111:** Discrimination (Employment and Occupation) Convention (1958)  
**C 138:** Minimum Age Convention (1973)  
**C 182:** Worst Forms of Child Labour Convention (1999)  
**D 98:** Declaration on Fundamental Principles and Rights at Work (1998)

### II. TABLES ON COUNCIL OF EUROPE AND EUROPEAN UNION

#### Council of Europe

- ECHR:** European Convention on Human Rights (Rome 1950)  
**ESC:** European Social Charter (Turin 1961)  
**AP ESC:** Additional Protocol to the European Social Charter (1988)  
**RESC:** (Revised) European Social Charter (1996)  
P1 refers to the Part I of the Charter  
P2 refers to the Part II of the Charter  
**ECSS:** European Code of Social Security (Strasbourg 1964)<sup>1</sup>

#### European Union

- CCFSR:** Community Charter of Fundamental Social Rights of Workers (1989)  
**TECUN:** Treaties establishing the European Community and European Union  
(as amended in Nice 2000)  
**ECFR:** Charter of Fundamental Rights of the European Union (2000)

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<sup>1</sup> the text was not added in the document since it was not integrated in the report, the text is however to find under:  
<http://conventions.coe.int/treaty/en/Treaties/Word/048.doc>

### III. TABLE ON THE CONSTITUTIONS

#### EU Member States

<b>A</b>	Austria	<b>IRL</b>	Ireland
<b>B</b>	Belgium	<b>L</b>	Luxembourg
<b>D</b>	Germany	<b>NL</b>	The Netherlands
<b>DK</b>	Denmark	<b>P</b>	Portugal
<b>E</b>	Spain	<b>S</b>	Sweden
<b>F</b>	France	<b>SF</b>	Finland
<b>GR</b>	Greece	<b>UK</b>	United Kingdom (no constitution)
<b>I</b>	Italy		

#### EU Candidate Countries

<b>BG</b>	Bulgaria	<b>M</b>	Malta
<b>CY</b>	Cyprus	<b>PL</b>	Poland
<b>CZ</b>	Czech Republic	<b>RO</b>	Romania
<b>EE</b>	Estonia	<b>SK</b>	Slovak Republic
<b>H</b>	Hungary	<b>SLO</b>	Slovenia
<b>LV</b>	Latvia	<b>TU</b>	Turkey
<b>LT</b>	Lithuania		

#### Other abbreviations and references

- In the column on **Austria (A)** references to constitutional texts are made in brackets, namely:  
**(1867)**: Basic law of 21 December 1867 on the General Rights of Nationals  
**(1918)**: Resolution of the Provisional National Assembly of 30 October 1918  
**(C)**: Constitution of 1983  
**(TSG)**: Treaty of Saint-Germain of 1918 (Part III)
- In the column on **Germany (D)** references to constitutional texts are made, namely:  
**WC**: Weimar Constitution of 11 August 1919
- In the column on **France (F)** references to constitutional texts are made, namely:  
**C**: Constitution of the Fifth French Republic of 4 October 1958  
**D**: Declaration on Human Rights of 24 August 1789  
**P**: Preamble to the Constitution of 27 October 1946
- Another reference that can be found is:  
B on x: This means that the right in question is recognised as being fundamental (through case law) and this recognition is based on the article to which reference is made.

## **Part I**

### **Comparative tables on Fundamental Social Rights**

- UN / ILO
- Council of Europe/ European Union
- EU member states
- EU candidate countries

## Comparative Tables on Fundamental Social Rights at the International Level

	UNITED NATIONS						ILO <sup>1</sup>
	UDHR	ECOSOC	CIPOL	CERAD	CEDAW	CRC <sup>2</sup>	
<b>NON-DISCRIMINATION</b>				subject of the Convention	subject of the Convention		
General Provisions	1	2(2)		1 definition			PhD(IIa)
Specific Provisions	2, 7, 16, 21(2), 23(2)		2(1), 4(1)14, 24, 26	5		2, 30	C100, C111 D98(2d), PhD(IIa, IIIj)
<b>LABOUR/EMPLOYMENT</b>					11		PhD(IIIa,b,d)
Free Choice of Occupation	23(1)	6(1)		5(e)I	11(1)c, 16(g)		

<sup>1</sup> Besides the 8 fundamental Conventions of the ILO, this table also refers to two further Declarations of the ILO. First, the “Declaration on Fundamental Principles and Rights at Work”, adopted in 1998 as, referring to point 2 of the Declaration, “*all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, ... the principles concerning the fundamental rights which are the subject of those Conventions, namely...*”. Second, the “Philadelphia Declaration” being part of the Constitution of the ILO.

<sup>2</sup> Including references to the “Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts” (CRC-OP-AC) and the “Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography” (CRC-OP-SC). Neither of the Optional Protocols has come into force yet!

	UNITED NATIONS							ILO
	UDHR	ECOSOC	CIPOL	CERAD	CEDAW	CRC		
Forced Labour	4 <sup>3</sup>		8(3)					C29, C105, D98(2b), PhD(Ia)
Right to Work	23(1)	6(1)		5(e)I	11(1)a			
Freedom of Business								
<b>WORKING CONDITIONS</b>								
Fair Remuneration	23(1)	7		5(e)I	11(1)c			PhD(IIIId)
Protection of Wages	23(2)(3)	7(a)		5(e)I	11(1)d			PhD(IIIId)
Working Time	24	7(d)						
Rest Periods	24	7(d)						
annual								
weekly								
Employment Services								
<b>RECONCILIATION OF WORK AND FAMILY LIFE</b>					<b>11c</b>			
Parental Leave								
Child Care					<b>11c</b>	18		
<b>HEALTH AND SAFETY AT WORK</b>		7(b)						PhD(IIIg)

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<sup>3</sup> This article refers to slavery.

	UNITED NATIONS						ILO
	UDHR	ECOSOC	CIPOL	CERAD	CEDAW	CRC	
EDUCATION	26	13		5(e)v			
Vocational Training	26(1)	6(2), 13(2)b		5(e)v			PhD(IIIc)
Vocational Guidance							
Initial Vocational Training							
Continuing/Re-Training							
SOCIAL PROTECTION	23(3)	11	5(e)iv				
Social Security	22	9	5(e)iv				PhD(III f)
Unemployment	23(1)25(1)		5(e)iv			26	
Old Age	25(1)						
Sickness	25(1)						
Disability	25(1)						
Health and Medical Care	25(1)	12	5(e)iv			24	PhD(III f)
SOCIAL ASSISTANCE	25(1)		5(e)iv				
HOUSING AND ACCOMMODATION	25(1)	11(1)		5(e)iii			PhD(III i)
PROTECTION OF SPECIAL GROUPS							
Children and Young Persons	25(2)	10(3)	23, 24(1)			subject of the Convention & CRC-OP-SC / CRC-OP-AC	C138 <sup>4</sup> , PhD(III h)
Child Labour		10(3)					C 182, D98(2c)

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<sup>4</sup> referring to minimum age

	UNITED NATIONS						ILO
	UDHR	ECOSOC	CIPOL	CERAD	CEDAW	CRC	
Working Conditions		10(3)				32	
<b>Women</b>		10(2)				24 <sup>5</sup>	
Equal Treatment (general)	Preamble	3	3		subject of the Convention		
Equal Treatment (employment)		3, 7(a)I			11, 14		C 100 <sup>6</sup>
Social Protection		10(2)					PhD(IIIh) <sup>7</sup>
<b>Elderly</b>							
Social Protection	25(1)						
<b>Disabled</b>						23	
Social Integration							
Social Protection	25(1)						
Professional Integration							
Vocational Training							
<b>Migrant Workers</b> <sup>8</sup>	(•)	(•)	(•)	(•)			
Free Movement	13		12, 13	5(d)I&ii			

<sup>5</sup> This article refers to pre-natal and post-natal health care for mothers.

<sup>6</sup> This article refers to remuneration;

<sup>7</sup> This article refers to maternity protection;

<sup>8</sup> Some of the analysed instruments provide no specific protection for migrant workers or foreigners in general. Whether or not they are covered by the scope of the instrument depends either on the definition used (in the sense of “everybody shall have”) or on the interpretation and case law. If the scope does indeed cover migrant workers/foreigners this is marked with an (•).

	UNITED NATIONS						ILO
	UDHR	ECOSOC	CIPOL	CERAD	CEDAW	CRC	
Equal Treatment (general)							
Equal Treatment(employment)							PhD(IIIc)
Social Protection							
Family Related Provisions							
<b>Atypical Workers</b>							
<b>COLLECTIVE RIGHTS</b>		8					
Freedom of Association	20	8	22	5(d)ix		15	C 87, C98, D98(2a), PhD(Ib)
Right to Join		8(a)		5e(ii)			C 87
Right to Form		8(a)		5(e)ii			C 87
Democracy at Work							
Information							
Consultation							
Participation							
Collective Bargaining							C 98, D98(2a), PhD(IIIe)
Collective Action							
Right to Strike		8(d)					
Lock-Out							
Conciliation/Arbitration							
<b>DATA PROTECTION</b>							



## The Council of Europe

	COUNCIL OF EUROPE <sup>9</sup>				
	ECHR <sup>10</sup>	ESC	AP ESC	RESC	ECSS <sup>11</sup>
<b>NON-DISCRIMINATION</b>	14				
General Provisions	P12(1)	B on 1(2)			
Specific Provisions		12(a)	1, A	P1(1) P1(20) P1(27) P2(20), A P2(27), A	
<b>LABOUR/EMPLOYMENT</b>		I(2)			
Free Choice of Occupation		B on 1(2) A <sup>12</sup>		P2(1), A	
Forced Labour	4				
Right to Work		1		P2(1), A	
Freedom of Business					

<sup>9</sup> The European Council's "Convention on the Exercise of Children's Rights" of 1996 shall only be mentioned here, as it is dealing with the judicial protection and exercise of children's rights.

<sup>10</sup> Related to the European Convention on Human Rights (1950) there are three protocols to the Convention to be mentioned, including fundamental social rights:

1. Protocol No.1 to the Convention for the Protection of Human Rights and Fundamental Freedoms of 1952, as amended by Protocol No.11 in 1998 (P1).
2. Protocol No.4 to the Convention for the Protection of Human Rights and Fundamental Freedoms of 1963, as amended by Protocol No.11 in 1998 (P4).
3. Protocol No.12 to the Convention for the Protection of Human Rights and Fundamental Freedoms of 2000 (P12).

<sup>11</sup> In addition to the European Code of Social Security the "European Convention on Social Security" was adopted in 1972, followed by a "Supplementary Agreement for the Application of the European Convention on Social Security" in 1972 and by the "Protocol to the European Convention on Social Security" in 1994. As all three documents are exclusively focusing on procedural aspects, they are not further dealt with in this report.

<sup>12</sup> "A" means Appendix

	COUNCIL OF EUROPE				
	ECHR	ESC	AP ESC	RESC	ECSS
<b>WORKING CONDITIONS</b>		3		P1(2),P1(24) P1(25) P1(26) P2(2), A, P2(24), A P2(25), A P2(26), A	
Fair Remuneration		4, A		P1(4), P2(4), A	
Protection of Wages		4(5), A			
Working Time		2(1)		P2(2), A	
Rest Periods		2(2,4,5)		P2(2), A	
Annual		2(3)		P2(2), A	
Weekly		2(5)		P2(2), A	
Employment Services				P2(1), A	
<b>RECONCILIATION OF WORK AND FAMILY LIFE</b>				P1(27) P2(27)1,3, A	
Parental Leave				P2(27)2, A	
Child Care		17		P2(17)1, A P2(27)1, A	
<b>HEALTH AND SAFETY AT WORK</b>		3		P1(3), A P2(2), A P2(3), A	VI <sup>13</sup>
<b>EDUCATION</b>	P1(2)				
Vocational Training		1(4),10		P1(10),P2(1) A, P2(10)	
Vocational Guidance		1(4),9		P1(9), P2(1) A, P2(9)	
Initial Vocational Training		1(4),10			
Continuing/Re-Training		1(4),10		P2(10)	

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<sup>13</sup> This article in particular deals with social security aspects of the issue.

	COUNCIL OF EUROPE				
	ECHR	ESC	AP ESC	RESC	ECSS
<b>SOCIAL PROTECTION</b>				P1(30) P2(30)	
<b>Social Security</b>		12, A		P1(12) P2(12), A	
Unemployment					IV
Old Age					V, X <sup>14</sup>
Sickness					II(13-18)
Disability					IX
Health and Medical Care		11,13, A		P1(13) P2(1), A P2(13), A	II(7-12)
SOCIAL ASSISTANCE		13,14, A		P1(13) P1(14) P2(13), A P2(14)	
<b>HOUSING AND ACCOMMODATION</b>			4(2a) <sup>15</sup>	P1(31) P2(23) <sup>16</sup> , A P2(31)	
<b>PROTECTION OF SPECIAL GROUPS</b>					
<b>Children and Young Persons</b>		7, A		P1(7) P1(17) P2(17), A	
Child Labour		7(1)		P2(7), A	
Working Conditions		7(2-10),A, 9 <sup>17</sup>		P2(7), A	
<b>Women</b>		8,17		P2(8), A	
Equal Treatment (general)					

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<sup>14</sup> This article deals with survivor benefits, for orphans and widows in particular.

<sup>15</sup> This article refers to housing for the elderly

<sup>16</sup> This article refers to housing for the elderly

<sup>17</sup> This article refers to vocational guidance.

	COUNCIL OF EUROPE				
	ECHR	ESC	AP ESC	RESC	ECSS
Equal Treatment (employment)		4(3)	1, A	P1(20) P1(27) P2(4), A P2(20), A P2(27), A	
Social Protection		8(1), 17		P1(8) P2(8), A	VII <sup>18</sup> , VIII <sup>19</sup>
<b>Elderly</b>			4, A	P2(23), A	
Social Protection			4, A	P1(23) P2(23), A	
<b>Disabled</b>		15		P1(15) P2(15)	
Social Integration		15			
Social Protection					
Professional Integration		15(2)			
Vocational Training		9, 10, 15		P2(10)	
<b>Migrant Workers</b> <sup>20</sup>		18, 19, A		P1(18) P1(19) P2(18) P2(19), A	
Free Movement	P4(2)	18			
Equal Treatment (general)		18			
Equal Treatment (employment)		19, A, 12(4), A			
Social Protection		12(4), A			
Family Related Provisions		19, A		P1(19) P2(19), A	
<b>Atypical Workers</b>					

<sup>18</sup> This article in particular deals with family benefits.

<sup>19</sup> This article in particular deals with maternity benefits.

<sup>20</sup> In 1977, the European Council adopted the “European Convention on the Legal Status of Migrant Workers”, that is referring to fundamental social protection of migrant workers. In particular, the following social rights of migrant workers are adopted: right to housing (Art 13), equal rights concerning education and vocational training (Art 14), equal treatment concerning the conditions of work (Art 16), equal treatment in the matter of social security (Art 18) and of social and medical assistance (Art 19), equal right of access to employment services (Art 27), right to organise (Art 28).

COUNCIL OF EUROPE					
	ECHR	ESC	AP ESC	RESC	ECSS
<b>COLLECTIVE RIGHTS</b>					
Freedom of Association	11	5		P1(5) P2(5)	
Right to Join	11	5			
Right to Form	11	5		P2(5)	
Democracy at Work			3, A		
Information			2, A	P1(21) P1(29) P2(21), A P2(29), A	
Consultation		6(1)	2, A	P1(21) P1(29) P2(21), A P2(29), A	
Participation			3, A	P1(22) P2(22), A	
Collective Bargaining		6, A		P1(6) P2(6), A	
Collective Action		6(4), A		P2(6), A	
Right to Strike		6(4), A		P2(6), A	
Lock-Out		6(4), A			
Conciliation/Arbitration		6(3)		P2(6), A	
<b>DATA PROTECTION</b>					

## The European Union

	EUROPEAN UNION		
	CCFSR	TECUN	ECFR <sup>21</sup>
<b>NON-DISCRIMINATION</b>			20
General Provisions		13	21
Specific Provisions		2,12, , 39(2), 141	23
<b>LABOUR/EMPLOYMENT</b>	4	2,3, 40(c), 125-130, 136, 140	
Free Choice of Occupation	4		15(1)
Forced Labour			
Right to Work	7		15 <sup>22</sup>
Freedom of Business		43-48	16
<b>WORKING CONDITIONS</b>	5	136, 137, 140	30,31, 33(2)
Fair Remuneration	5	141, 137(5)	
Protection of Wages	7		
Working Time	8		31(2)
Rest Periods			31(2)
annual	6		31(2)
weekly			31(2)
Employment Services			29

<sup>21</sup> The Bureau of the Convention prepared explanations for each article of the Charter. The full text of the explanations as set out in CHARTE 4487/00 CONVENT 50, can be found as a pdf-file in the web: [http://www.europarl.eu.int/charter/pdf/04473\\_en.pdf](http://www.europarl.eu.int/charter/pdf/04473_en.pdf).

<sup>22</sup> This right was and is still heavily debated since it mentions only a right to engage in work and a freedom to work

	EUROPEAN UNION		
	CCFSR	TECUN	ECFR
<b>RECONCILIATION OF WORK AND FAMILY LIFE</b>	16		33(2)
Parental Leave			33(2)
Child Care			
<b>HEALTH AND SAFETY AT WORK</b>	19	137, 140	31(1)
<b>EDUCATION</b>	15	149, 150	14(1)
Vocational Training		140, 146, 149	14(1)
Vocational Guidance			
Initial Vocational Training		150	
Continuing/Re-Training		150, 146	14(1)
<b>SOCIAL PROTECTION</b>	10	136137, 144	
<b>Social Security</b>	10	42, 140	34(2)
Unemployment			34(1)
Old Age			34(1)
Sickness			34(1)
Disability			34(1)
Health and Medical Care		Title XIII	35
<b>SOCIAL ASSISTANCE</b>	10		34(3)
<b>HOUSING AND ACCOMMODATION</b>	26 <sup>23</sup>		34(3) <sup>24</sup>

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<sup>23</sup> Referring to housing for disabled persons

<sup>24</sup> Only in relation to combating social exclusion and poverty

	EUROPEAN UNION		
	CCFSR	TECUN	ECFR
<b>PROTECTION OF SPECIAL GROUPS</b>			
<b>Children and Young Persons</b>	20-23		24
Child Labour		41	32
Working Conditions			32
<b>Women</b>			33(2)
Equal Treatment (general)	16	2, 3	23
Equal Treatment (employment)	16	137, 140, 141	23
Social Protection	16		
<b>Elderly</b>	24-25		25
Social Protection			
<b>Disabled</b>	26		26
Social Integration			26
Social Protection			26
Professional Integration			26
Vocational Training			
<b>Migrant Workers</b>		137	
Free Movement	1	3, 18, 39, 146	
Equal Treatment (general)		17	
Equal Treatment (employment)		39(2), 40c	15(3)
Social Protection		42	
Family Related Provisions			
<b>Atypical Workers</b>			



	EUROPEAN UNION		
	CCFSR	TECUN	ECFR
<b>COLLECTIVE RIGHTS</b>		136, 137, 138	
Freedom of Association	11	137(5), 140	12(1)
Right to Join	11		12(1)
Right to Form	11		12(1)
Democracy at Work	17,18		
Information		137	27
Consultation		137	27
Participation			
Collective Bargaining	12	140	28
Collective Action			28
Right to Strike		137(5)	28
Lock-out		137(5)	
Conciliation/Arbitration			
<b>DATA PROTECTION</b>			8

### CONSTITUTIONS OF THE EU MEMBER STATES

	A	B	D	DK	E	F	GR	I	IRL	L	NL	P	S	SF	UK
<b>NON DISCRIMINATION</b>					1, 9(2)									6	
General provision	2(1867)				139	D (1)	4(1)	3	40(1)(2)	11	1	12, 26		6(1), 7(1)	
Specific provisions	2(1867) 19(1867) 7 C 63(TSG) 66(TSG) 67 (TSG)	10, 11,131	3;33(2+3) 136 WC 137 WC	70, 71 83, 87	14 32 (1), 35 39(2)	P(1)(3)(5) C(1)(77) D (1)(6)	4(1)(2) 5(1,2) 22(1)	3,8,29(2) 30(1,3),37	40(6)2 9(1)3, 16(1,2,3)	9	1	13(1)(2) 59(1) 74(1)(2) 36(1) (3)(4),73(2), 76,81,109	1:2; 1:9 2:15(•) 2:16	6(2)(3)(4), 11, 17(2)	
<b>LABOUR/EMPLOYMENT</b>					39-52 Chapter on Social Policy	P(5) C(1)(34)	108	1,35,41	45	11	19(1)	80, 59	2:15	18	
Free choice of occupation	6 (1867) 18(1867) 66(TSG)	23	12(1)	74	35(1)			B on 4			19(3)	47 58(3)b		18(1)	
Forced labour	B on 18		12(2)(3)		25(2)	P (5)	22(3)	23			98(3)				
Right to work	18 (1867)	23	(•)			P (5)	22(1)	4, 120	(•)	11		58	1:2	18(2)	
Freedom of business				74	38			41	45(3)	11(6)		80c, 86		18(1)	
<b>WORKING CONDITIONS</b>				75(1)			22(1)(2)				19(2)	59(1)b			
Fair remuneration		23					22(1)	36	45(2)(•)			59(1)a 59(2)a, (2)f			
Protection of wages		B on 23										59(2)a, 51(3)			
Working time		B on 23			40(2)			36				59(1)c 59(2)b			
Rest periods		B on 23	139WC		40(2)			36		11		59(1)d 59(2)d			
Weekly		B on 23						36				59(1)d			
Annual		B on 23						36							
Employment services		B on 23													

(•) Germany: Right to work: This right is foreseen in some of the constitutions of the *Länder*; (•) Ireland: apparently the right to work and a fair remuneration are based on case law; (•) Sweden: since the Swedish constitution is divided in chapters which all have an article 1 etc., the reference 1:2 means Chapter 1 article 2

	A	B	D	DK	E	F	GR	I	IRL	L	NL	P	S	SF	UK
<b>RECONCILIATION OF WORK AND FAMILY LIFE</b>												59(1)b, 68			
Parental leave												68(3)(4)			
Child care												67(2)b			
<b>HEALTH AND SAFETY AT WORK</b>					40(2)							59(1)c, 59(1)f			
<b>EDUCATION</b>	17 (1867)	24	7C	76	27, 36	P (13)	16	33, 34	42	23	23	73, 74, 43	1:2(2)	16	
Vocational training	18 (1867)	B on 23			40(2)	P (13)	16(2)(7) 108	35 38		23		58(3)c 70(1)a			
Vocational guidance															
Initial vocational training															
Continuing training/retraining															
<b>SOCIAL PROTECTION</b>			B on 1	75(2)	39	P(11)	108				20(1)	59(1)f			
<b>SOCIAL SECURITY</b>		23			25(2); 41	P(11)	22(4)	38		11(5)	20(2)	63(1)	1:2	19	
Unemployment					41			38				63(4)		19	
Old age					50	P(11)		38				63(4)(5)		19	
Sickness							21(2)	38				63(4)		19	
Disability					49	P(11)	21(2)(3)	38				63(4)(5)		19	
Health and medical care		23			43;49; 50;51	P(11)	21(3)	32	45(4)1	11, 23	22(1)	64			
<b>SOCIAL ASSISTANCE</b>		23		75(2)		P(11)		38		23	20(3)		1:2		
<b>HOUSING AND ACCOMMODATION</b>		23(3)			47		21(4)				22(2)	64(2), 65	1:2(2)	19(4)	

	A	B	D	DK	E	F	GR	I	IRL	L	NL	P	S	SF	UK
<b>PROTECTION OF SPECIAL GROUPS</b>															
<b>CHILDREN AND YOUNG PERSONS</b>					39(1)(4) 48	P(11)	21(1)(3)	30, 31 37				59(2) <sup>c</sup> 64(2) <sup>c</sup> 69, 70, 36, 74 <sup>f</sup>		6(3)	
Child labour									45(4) <sup>2°</sup>			69(3),			
Working conditions								37				70, 59(2) <sup>f</sup>			
<b>WOMEN</b>			6(4)				21(1)	31	41(2)			58(3) 64(2) <sup>2</sup>			
Equal treatment (general)	7C (2)		3(2)		32(1)	P(3)	4(2)	3, 29(2)	9(1) <sup>3</sup>		1	109	1;2; 2;16	6(2) (4)	
Equal treatment (employment)					35(1)		22(1)	37	45(2) <sup>I</sup> 41(2)			58(3) <sup>b</sup> , 59(1)		6(4)	
Social protection						P(11)						59(2) <sup>c</sup> 68(3)			
<b>ELDERLY</b>					50				45(4) <sup>1</sup>			64(2) <sup>b</sup> 72			
Social protection						P(11)	21(3)	38							
<b>DISABLED</b>	7C (1)				49			38	45(4)			59(2) <sup>c</sup> 71			
Social integration								38							
Social protection						P(11)	21(2)(3)	38							
Professional integration								38							
Vocational training								38							

	A	B	D	DK	E	F	GR	I	IRL	L	NL	P	S	SF	UK
<b>MIGRANT WORKERS</b>		23(•); 191		(•)	13(•)	(•)		10	(•)	111					
Free movement							5(4)	16;35;120				230(b)			
Equal treatment (general)												15	2:20		
Equal treatment (employment)												59(1) 59(2)e			
Social protection												59(2)e			
Family related provisions															
<b>ATYPICAL WORKERS</b>															
<b>COLLECTIVE RIGHTS</b>					7;52	C(34)						40(1) 56; 80g, 52			
Freedom of association	12(1867) 3(1918)	27	9	78	22;28(1)		12;23(1)	18;39		11;26	8134(1)	46;54;55 61;63	2:1(5) 2:14	13	
Right to join					28(1)	P(6)		39	40(6) 1iii& 2			55(b)		13	
Right to form					28(1)	P(6)		39						13	
Democracy at work												54;55;80f			
Information		23													
Consultation		23										55; 90			
Participation					129			46				56, 80g			
Collective bargaining		23			37	P(8)	22(2)	3,39			19(2)109				
Collective action			9(3)		37(2)										
Right to strike					28(2)	P(7)	23(2)	40				57(1-2)	2:17		
Lock-out												57(3)	2:17		
Conciliation & arbitration							22(2)								
<b>DATA PROTECTION</b>											10	35	2:20		

(•) In the column migrant workers the (•) means that the fundamental rights are also guaranteed to migrants.

## CONSTITUTIONS OF THE EU APPLICANT COUNTRIES

	BG	CY <sup>25</sup>	CZ <sup>26</sup>	EE	H	LV	LT	M	PL	RO <sup>27</sup>	SK	SLO <sup>28</sup>	TU
<b>NON DISCRIMINATION</b>												15(5)	
General provision	6(1), 26 (1)	28	Preamble	9		91	29(1)		32		12(1)	14(2)	
Specific provisions	6(2), 22 (2), 26(2), 47(3), 46(2)	6, 18(3), 28	96(1)	12, 27(2)(3) 28(1), 29(1) 49, 50, 34	57(1), 66(1) 70(A), 70(B)2		29(2), 38(3)(5), 50(2) 41(2)(3)	14, 32, 45	33, 37, 58, 60, 64, 68(2), 70(4)	4(2), 6(2), 16 38(4), 44(1)(3)	12(2), 30(4), 36, 41(3) 47(3)	7, 14, 16, 22, 29, 49 52, 53(1), 54, 63	10, 14, 29
<b>LABOUR/EMPLOYMENT</b>													
Free choice of occupation	16						46	1, 7, 12				2, 62, 66	2, 49
Forced labour	48(3)	25		29(1)	70(B)1	106	48(1)		65(1), 17(2)	38(1)	35(1)	49	48
Right to work	48(4)	10		29(2)			48(3)	35	65(2)(3)	39	18	49	18
Freedom of business	48(1)(2)				70(B)1			7		38(1)	35(3)	49	49
<b>WORKING CONDITIONS</b>													
Fair remuneration	19	25		31	9		46(1)		17(2), 22		35(1), 54	74	48
Protection of wages	48(5)			29(4)			48(1)		66	38(2)	36		
Working time	48(5)				70(B)3	107	48(1)				36		55
Rest periods													
Weekly													
Annual													
Employment services													
				29(3)				7	65(5)				49

<sup>25</sup> 1975: The Turkish Cypriot area proclaims self-rule from Republic of Cyprus and creates its own constitution; 1983: Turkish Cypriot Rauf Denktaş declares independence of a (renamed) "Turkish Republic of Northern Cyprus". TRNC is not recognized by any state except Turkey.

Art 10: "Ratified and promulgated international accords on human rights and fundamental freedoms, to which the Czech Republic has committed itself, are immediately binding and are superior to law" (the European Social Charter was not adopted as an international agreement after Article 10).

<sup>26</sup> Specific Reference in Article 3 to the Charter of Fundamental Rights & Freedoms

Specific Reference in Article 4 to the Protection of Fundamental Rights & Freedoms by judicial power

<sup>27</sup> Specific Reference in Article 20 to UDHR.

<sup>28</sup> Art. 15(5): see footnote 5

	BG	CY	CZ	EE	H	LV	LT	M	PL	RO	SK	SLO	TU
<b>HEALTH AND SAFETY AT WORK</b>	48(5)				70(D)2		48		66(1)	38(2)	36		
<b>EDUCATION</b>	53	20		37	70F	112	41(2)(3)	110, 11	70	32	42	57	42
Vocational training				29(3)					65(5)		35(1)		42
Vocational guidance													
Initial vocational training													
Continuing training/retraining													
<b>SOCIAL PROTECTION</b>		9								43, 38(2)	35(3)		
<b>SOCIAL SECURITY</b>	51(1)	9			17, 70(E)1	109				33, 43		50	60
Unemployment	51(2)				“	109	48, 52	17	67(2)	43			
Old age	51(3)			28(1)	“	109	52	17	67(1)	43	39(1)		
Sickness				28(1)	“		52	17	67(1)	33			
Disability	51(3)			28(3)	“	109 <sup>29</sup>	52	17	67(1)		39(1)	50	
Health and medical care	52			28	70(D)1		53		68	33	40	50, 51	56, 59
<b>SOCIAL ASSISTANCE</b>	51(1)			28	17	111	52		71	43	35(3), 39(2)		55

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<sup>29</sup> Referring to work disability only

	BG	CY	CZ	EE	H	LV	LT	M	PL	RO	SK	SLO	TU
<b>HOUSING AND ACCOMODATION</b>									75, 76				57
<b>PROTECTION OF SPECIAL GROUPS</b>				27(4)									61
<b>CHILDREN AND YOUNG PERSONS</b>	47(3)(4), 14			27(3)	16,67	110	38, 39		48(1), 68(3)(5) 72	45, 44(3)	38, 41	52(2), 53, 54, 56	50, 58, 61
Child labour								15, 16	56(3)				
Working conditions					66(3)			16		38(2), 45(3)(4)(5)	38(1)(2)		
<b>WOMEN</b>	14, 47(2)				66(2),(3)				68(3) <sup>30</sup> , 71(2) <sup>31</sup>	38(2)	38, 41		50
Equal treatment (general)	6(2)			27(2)(3)	66(1)		38(3)(5)	14, 45	32(2), 33	4(2), 44(1)	12(2)	14, 16, 53	
Equal treatment(employment)								14	32(2), 33	38(4)	36	49	
Social protection	47(2)				66(2)		39(2)			43, 33(3) <sup>32</sup>	38(1)		
<b>ELDERLY</b>									68(3)				50
Social protection	51(3)												61
<b>DISABLED</b>				28(3)					68(3), 69	46	38	52	50
Social integration									69	46		52	61
Social protection	51(3)			28				17	69	46	38(1)	52	61
Professional integration	48(2)								69	46	38(2)	52	
Vocational training								17	69	46	38(2)	52	

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<sup>30</sup> Referring to pregnant women

<sup>31</sup> Special protection for the time before and after the birth of a child

<sup>32</sup> Referring to maternity



	BG	CY	CZ	EE	H	LV	LT	M	PL	RO	SK	SLO	TU
<b>MIGRANT WORKERS</b>							48				35(4)	5, 13, 79	
Free movement	33, 35			34		97			52				
Equal treatment (general)	26(2)										52		
Equal treatment(employment)													
Social protection													
Family related provisions													
<b>ATYPICAL WORKERS</b>													
<b>COLLECTIVE RIGHTS</b>	12				4	108			20, 59		37		
Freedom of association	49(2), 44(1)	21		29, 48	63,35	108	35, 50	42	12, 58, 59(1)	37	29,37	42, 76	33, 52
Right to join	49	21		29(5)	63(1)	102		42		37(1)	23(1), 37		33, 51
Right to form	49(1)	21		48(1)	63(1),70(B) <sub>1</sub>	102	50	42		9		76	33, 51
Democracy at work												75	
Information													
Consultation													
Participation												75	
Collective bargaining		26				108			59(2)	38(5)	36		53
Collective action				29(5)									49
Right to strike	50	27		29	70(C) <sub>1</sub> “ “ <sub>3</sub>	108	51		59(3)	40	37(4), 54	77	54
Lock-out													54
Conciliation & arbitration				29(6)									
<b>DATA PROTECTION</b>		51(3)									19(3), 22(1)	38	



## **Part II**

### **United Nations**

- Universal declaration of human rights
- International covenant on economic, social and cultural rights
- International covenant on civil and political rights
- International convention on the elimination of all forms of racial discrimination
- Convention on the elimination of all forms of discrimination against women
- Convention on the right of the child



## UNIVERSAL DECLARATION OF HUMAN RIGHTS (1948)

### PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

Whereas it is essential to promote the development of friendly relations between nations.

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in large freedom.

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedom.

Whereas a common understanding of these rights and freedom is of the greatest importance for the realisation of this pledge.

Now therefore.

The General Assembly

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

### Article 1

All human being are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

## Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration. without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs. whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

## Article 3

Everyone has the right to life, liberty and security of person.

## Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

## Article 5

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

## Article 6

Everyone has the right to recognition everywhere as a person before the law.

## Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

## Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

## Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

### Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

### Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

### Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

2. Everyone has the right to leave any country, including his own, and to return to his country.

### Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.

2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

### Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

### Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

### Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

### Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

### Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

### Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

### Article 21

1. Everyone has the right to take part in the government of his country. directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

### Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

### Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.



3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity. and supplemented. if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

#### Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

#### Article 25

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances, beyon his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock. shall enjoy the same social protection

#### Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

#### Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

#### Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

### Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible,
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of United Nations.

### Article 30

Nothing in the Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

## **INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (1966)**

### **PREAMBLE**

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights.

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms.

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant.

Agree upon the following articles:

### **PART I**

#### **Article 1**

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## PART II

### Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

### Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

### Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

### Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.
2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

## PART III

### Article 6

1. The States Parties to the present Covenant recognize the right of work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques, to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

### Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

### Article 8

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

#### Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

#### Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

#### Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources:

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

## Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child:

(b) The improvement of all aspects of environmental and industrial hygiene:

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases:

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

## Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with the view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all:

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education:

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued. an adequate fellowship system shall be established. and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools. other than those established by the public authorities. which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

#### Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge at all.

#### Article 15

1. The States Parties to the present Covenant recognize the right for everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications:

(c) To benefit from the protection of the moral and material interest resulting from any scientific, literary or artistic production of which he is the author.

2. The Steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The State Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

### PART IV – PART V

#### Article 16 – Article 31



## INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

(Adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXII) of 16 December 1966)

ENTRY INTO FORCE: 23 March 1976, in accordance with article 49.

### PREAMBLE

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

### PART I

#### Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## PART II

### Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

3. Each State Party to the present Covenant undertakes:

(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

### Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

### Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

### Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

## PART III

### Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

### Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

### Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term 'forced or compulsory labour' shall not include:

(i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life of well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

### Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been victim of unlawful arrest or detention shall have an enforceable right to compensation.

### Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;  
  
(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

### Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

### Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

### Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

### Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The Press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or

when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes of the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

### Article 15

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

### Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

### Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

### Article 18

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

### Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

#### Article 20

1. Any propaganda for war shall be prohibited by law.

2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

#### Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

#### Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice the guarantees provided for in that Convention.

#### Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

2. The right of men and women of marriageable age to marry and to found a family shall be recognized.



3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

#### Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

#### Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

#### Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

#### Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

### PART IV – PART VI

#### Article 28-Article 53

## **INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION**

(Adopted and opened for signature and ratification by General Assembly resolution 2106 A (XX) of 21 December 1965)

ENTRY INTO FORCE: 4 January 1969 in accordance with article 19.

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of *apartheid*, segregation or separation,

Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

## PART I

### Article 1

1. In this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.

3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

### Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

### Article 3

States Parties particularly condemn racial segregation and *apartheid* and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

### Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, *inter alia*:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

#### Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- (a) The right to equal treatment before the tribunals and all other organs administering justice;
- (b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- (c) Political rights, in particular the rights to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;
- (d) Other civil rights, in particular:
  - (i) The right to freedom of movement and residence within the border of the State;
  - (ii) The right to leave any country, including one's own, and to return to one's country;
  - (iii) The right to nationality;
  - (iv) The right to marriage and choice of spouse;
  - (v) The right to own property alone as well as in association with others;
  - (vi) The right to inherit;
  - (vii) The right to freedom of thought, conscience and religion;
  - (viii) The right to freedom of opinion and expression;
  - (ix) The right to freedom of peaceful assembly and association;
- (e) Economic, social and cultural rights, in particular:
  - (i) The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
  - (ii) The right to form and join trade unions;
  - (iii) The right to housing;

- (iv) The right to public health, medical care, social security and social services;
- (v) The right to education and training;
- (vi) The right to equal participation in cultural activities;
- (f) The right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks.

#### Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

#### Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnic groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

### PART II – PART III

#### Article 8-Article 25

## CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

(Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979)

ENTRY INTO FORCE: 3 September 1981, in accordance with article 27 (i).

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

Noting that the States parties to the International Covenants on Human Rights have the obligation to ensure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights,

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

Noting also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist,

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

Emphasizing that the eradication of *apartheid*, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

## PART I

### Article 1

For the purposes of the present Convention, the term 'discrimination against women' shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural civil or any other field.

### Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;



- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

### Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

### Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating *de facto* equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

### Article 5

States Parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

### Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

## PART II

### Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

### Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

### Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

## PART III

### Article 10

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- (a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- (b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- (c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- (d) The same opportunities to benefit from scholarships and other study grants;
- (e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- (f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- (g) The same opportunities to participate actively in sports and physical education;
- (h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

## Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
  - (a) The right to work as an inalienable right of all human beings;
  - (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
  - (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining including apprenticeships, advanced vocational training and recurrent training;
  - (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
  - (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
  - (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

#### Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connexion with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

#### Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(a) The right to family benefits;

(b) The right to bank loans, mortgages and other forms of financial credit;

(c) The right to participate in recreational activities, sports and all aspects of cultural life.

#### Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate

measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take ,all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development planning at all levels;
- (b) To have access to adequate healthcare facilities, including information, counselling and services in family planning;
- (c) To benefit directly from social security programmes;
- (d) To obtain all types of training and education, formal and non formal, including that relating to functional literacy, as well as, *inter alia*, the benefit of all community and extension services, in order to increase their technical proficiency;
- (e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or selfemployment;
- (f) To participate in all community activities;
- (g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
- (h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

## PART IV

### Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

## Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- (a) The same right to enter into marriage;
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- (c) The same rights and responsibilities during marriage and at its dissolution;
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

## PART V – PART IV

## Article 17-Article 30

## CONVENTION ON THE RIGHTS OF THE CHILD (1989)

(Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989; entry into force 2 September 1990, in accordance with article 49)

### PREAMBLE

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) ; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

## PART I

### Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

### Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

### Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.



3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

#### Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

#### Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

#### Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

#### Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

#### Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

### Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests. 4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

### Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

### Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

#### Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

#### Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others; or
  - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

#### Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

#### Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

#### Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

#### Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

#### Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

#### Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

#### Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

#### Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development

4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

(a) To diminish infant and child mortality;

(b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

#### Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

#### Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c) Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.



2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

#### Article 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

#### Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

#### Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

#### Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

#### Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

#### Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

#### Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

#### Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

### Article 37

States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

### Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

### Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

(i) To be presumed innocent until proven guilty according to law;

(ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

(iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;

(iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

(v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

(vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

(vii) To have his or her privacy fully respected at all stages of the proceedings. 3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

#### Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State party; or
- (b) International law in force for that State.

#### PART II – PART III

#### Article 42-Article 54



## **Part III**

### **International Labour Organisation**

- Philadelphia Declaration
- Convention n° 29  
concerning forced or compulsory labour
- Convention n° 87  
concerning freedom of association and protection of the right to organise
- Convention n° 98  
concerning the application of the principles of the right to organise and to bargain collectively
- Convention n° 100  
concerning equal remuneration for men and women workers for work of equal value
- Convention n° 105  
concerning the abolition of forced labour
- Convention n° 111  
concerning discrimination in respect of employment and occupation
- Convention n° 138  
concerning minimum age for admission to employment
- Convention n° 182  
concerning the worst forms of child labour
- ILO declaration on fundamental principles and rights at work
- Table of ratification and information concerning the ILO's Fundamental Conventions





## **PHILADELPHIA DECLARATION (1944)**

Declaration concerning the aims and purposes of the International Labour Organization

The General Conference of the International Labour Organization meeting in its Twenty-sixth Session in Philadelphia, hereby adopts this tenth day of May in the year nineteen hundred and forty-four the present Declaration of the aims and purposes of the International Labour Organization and of the principles which should inspire the policy of its Members.

**I** The Conference reaffirms the fundamental principles on which the Organization is based and, in particular, that-

- (a) labour is not a commodity;
- (b) freedom of expression and of association are essential to sustained progress;
- (c) poverty anywhere constitutes a danger to prosperity everywhere;
- (d) the war against want requires to be carried on with unrelenting vigor within each nation, and by continuous and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare.

**II** Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organization that lasting peace can be established only if it is based on social justice, the Conference affirms that-

- (a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;
- (b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy;
- (c) all national and international policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective;
- (d) it is a responsibility of the International Labour Organization to examine and consider all international economic and financial policies and measures in the light of this fundamental objective;
- (e) in discharging the tasks entrusted to it the International Labour Organization, having considered all relevant economic and financial factors, may include in its decisions and recommendations any provisions which it considers appropriate.

**III** The Conference recognizes the solemn obligation of the International Labour Organization to further among the nations of the world programmes which will achieve:

- (a) full employment and the raising of standards of living;

- (b) the employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and attainments and make their greatest contribution to the common well-being;
- (c) the provision, as a means to the attainment of this end and under adequate guarantees for all concerned, of facilities for training and the transfer of labour, including migration for employment and settlement;
- (d) policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection;
- (e) the effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures;
- (f) the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care;
- (g) adequate protection for the life and health of workers in all occupations;
- (h) provision for child welfare and maternity protection;
- (i) the provision of adequate nutrition, housing and facilities for recreation and culture;
- (j) the assurance of equality of educational and vocational opportunity.

**IV** Confident that the fuller and broader utilization of the world's productive resources necessary for the achievement of the objectives set forth in this Declaration can be secured by effective international and national action, including measures to expand production and consumption, to avoid severe economic fluctuations to promote the economic and social advancement of the less developed regions of the world, to assure greater stability in world prices of primary products, and to promote a high and steady volume of international trade, the Conference pledges the full cooperation of the International Labour Organization with such international bodies as may be entrusted with a share of the responsibility for this great task and for the promotion of the health, education and well-being of all peoples.

**V** The conference affirms that the principles set forth in this Declaration are fully applicable to all peoples everywhere and that, while the manner of their application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples who are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilized world

## **CONVENTION No. 29**

### **CONVENTION CONCERNING FORCED OR COMPULSORY LABOUR**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fourteenth Session on 10 June 1930, and

Having decided upon the adoption of certain proposals with regard to forced or compulsory labour, which is included in the first item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-eighth day of June of the year one thousand nine hundred and thirty, the following Convention, which may be cited as the Forced Labour Convention, 1930, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

#### Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory, labour in all its forms within the shortest possible period.
2. With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.
3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 21 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the agenda of the Conference.

#### Article 2

1. For the purposes of this Convention the term "forced or compulsory labour shall mean all work or service which is exacted from a person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term "forced or compulsory labour" shall not include:
  - (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
  - (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;

(c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;

d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;

(e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon, the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

### Article 3

For the purposes of this Convention the term "competent authority" shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned.

### Article 4

1. The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.

2. Where such forced or compulsory labour for the benefit of private individuals, companies or associations exists at the date on which a Member's ratification of this Convention is registered by the Director-General of the International Labour Office, the Member shall completely suppress such forced or compulsory labour from the date on which this Convention comes into force for that Member.

### Article 5

1. No concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilise or in which they trade.

2. Where concessions exist containing provisions involving such forced or compulsory labour, such provisions shall be rescinded as soon as possible, in order to comply with Article 1 of this Convention.

### Article 6

Officials of the administration, even when they have the duty of encouraging the populations under their charge to engage in some form of labour, shall not put constraint upon the said

populations or upon any individual members thereof to work for private individuals, companies or associations.

#### Article 7

1. Chiefs who do not exercise administrative functions shall not have recourse to forced or compulsory labour.
2. Chiefs who exercise administrative functions may, with the express permission of the competent authority, have recourse to forced or compulsory labour, subject to the provisions of Article 10 of this Convention.
3. Chiefs who are duly recognised and who do not receive adequate remuneration in other forms may have the enjoyment of personal services, subject to due regulation and provided that all necessary measures are taken to prevent abuses.

#### Article 8

1. The responsibility for every decision to have recourse to forced or compulsory labour shall rest with the highest civil authority in the territory concerned.
2. Nevertheless, that authority may delegate powers to the highest local authorities to exact forced or compulsory labour which does not involve the removal of the workers from their place of habitual residence. That authority may also delegate, for such periods and subject to such conditions as may be laid down in the regulations provided for in Article 23 of this Convention, powers to the highest local authorities to exact forced or compulsory labour which involves the removal of the workers from their place of habitual residence for the purpose of facilitating the movement of officials of the administration, when on duty, and for the transport of Government stores.

#### Article 9

Except as otherwise provided for in Article 10 of this Convention, any authority competent to exact forced or compulsory labour shall, before deciding to have recourse to such labour, satisfy itself:

- (a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do work or render the service;
- (b) that the work or service is of present or imminent necessity;
- (c) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and
- (d) that the work or service will not lay too heavy burden upon the present population, having regard to the labour available and its capacity to undertake the work.

### Article 10

1. Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished.

2. Meanwhile, where forced or compulsory labour is exacted as a tax, and where recourse is had to forced or compulsory labour for the execution of public works by chiefs who exercise administrative functions, the authority concerned shall first satisfy itself:

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;

(b) that the work or the service is of present or imminent necessity;

(c) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work;

(d) that the work or service will not entail the removal of the workers from their place of habitual residence;

(e) that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

### Article 11

1. Only adult able-bodied males who are of an apparent age of not less than 18 and not more than 45 years may be called upon for forced or compulsory labour. Except in respect of the kinds of labour provided for in Article 10 of this Convention, the following limitations and conditions shall apply:

(a) whenever possible prior determination by a medical officer appointed by the administration that the persons concerned are not suffering from any infectious or contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;

(b) exemption of school teachers and pupils and officials of the administration in general;

(c) the maintenance in each community of the number of adult able-bodied men indispensable for family and social life;

(d) respect for conjugal and family ties.

2. For the purposes of subparagraph (c) of the preceding paragraph, the regulations provided for in Article 23 of this Convention shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour, provided always that this proportion shall in no case exceed 25 per cent. In fixing this proportion the competent authority shall take account of the density of the population, of its social and physical development, of the seasons, and of the work which must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic and social necessities of the normal life of the community concerned.

## Article 12

1. The maximum period for which any person may be taken for forced or compulsory labour of all kinds in any one period of twelve months shall not exceed sixty days, including the time spent in going to and from the place of work.
2. Every person from whom forced or compulsory labour is exacted shall be furnished with a certificate indicating the periods of such labour which he has completed.

## Article 13

1. The normal working hours of any person from whom forced or compulsory labour is exacted shall be the same as those prevailing in the case of voluntary labour, and the hours worked in excess of the normal working hours shall be remunerated at the rates prevailing in the case of overtime for voluntary labour.
2. A weekly day of rest shall be granted to all persons from whom forced or compulsory labour of any kind is exacted and this day shall coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned.

## Article 14

1. With the exception of the forced or compulsory labour provided for in Article 10 of this Convention, forced or compulsory labour of all kinds shall be remunerated in cash at rates not less than those prevailing for similar kinds of work either in the district in which the labour is employed or in the district from which the labour is recruited, whichever may be the higher.
2. In the case of labour to which recourse is had by chiefs in the exercise of their administrative functions, payment of wages in accordance with the provisions of the preceding paragraph shall be introduced as soon as possible.
3. The wages shall be paid to each worker individually and not to his tribal chief or to any other authority.
4. For the purpose of payment of wages the days spent in travelling to and from the place of work shall be counted as working days.
5. Nothing in this Article shall prevent ordinary rations being given as a part of wages, such rations to be at least equivalent in value to the money payment they are taken to represent, but deductions from wages shall not be made either for the payment of taxes or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work under the special conditions of any employment, or for the supply of tools.

## Article 15

1. Any laws or regulations relating to workmen's compensation for accidents or sickness arising out of the employment of the worker and any laws or regulations providing compensation for the dependants of deceased or incapacitated workers which are or shall be in

force in the territory concerned shall be equally applicable to persons from whom forced or compulsory labour is exacted and to voluntary workers.

2. In any case it shall be an obligation on any authority employing any worker on forced or compulsory labour to ensure the subsistence of any such worker who, by accident or sickness arising out of his employment, is rendered wholly or partially incapable of providing for himself, and to take measures to ensure the maintenance of any persons actually dependent upon such a worker in the event of his incapacity or decease arising out of his employment.

#### Article 16

1. Except in cases of special necessity, persons from whom forced or compulsory labour is exacted shall not be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health.

2. In no case shall the transfer of such workers be permitted unless all measures relating to hygiene and accommodation which are necessary to adapt such workers to the conditions and to safeguard their health can be strictly applied.

3. When such transfer cannot be avoided, measures of gradual habituation to the new conditions of diet and of climate shall be adopted on competent medical advice.

4. In cases where such workers are required to perform regular work to which they are not accustomed, measures shall be taken to ensure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and any increase or amelioration of diet which may be necessary.

#### Article 17

Before permitting recourse to forced or compulsory labour for works of construction or maintenance which entail the workers remaining at the workplaces for considerable periods, the competent authority shall satisfy itself:

(1) that all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, (a) that the workers are medically examined before commencing the work and at fixed intervals during the period of service, (b) that there is an adequate medical staff, provided with the dispensaries, infirmaries, hospitals and equipment necessary to meet all requirements, and, (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils, and, where necessary, of housing and clothing, are satisfactory;

(2) that definite arrangements are made to ensure the subsistence of the families of the workers, in particular by facilitating the remittance, by a safe method, of part of the wages to the family, at the request or with the consent of the workers;

(3) that the journeys of the workers to and from the work-places are made at the expense and under the responsibility of the administration, which shall facilitate such journeys by making the fullest use of all available means of transport;

(4) that, in case of illness or accident causing incapacity to work of a certain duration, the worker is repatriated at the expense of the administration;



(5) that any worker who may wish to remain as a voluntary worker at the end of his period of forced or compulsory labour is permitted to do so without, for a period of two years, losing his right to repatriation free of expence to himself.

### Article 18

1. Forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Meanwhile the competent authority shall promulgate regulations determining inter alia, (a) that such labour shall only be employed for the purpose of facilitating the movement of officials of the administration, when on duty, or for the transport of Government stores, or, in cases of very urgent necessity, the transport of persons other than officials, (b) that the workers so employed shall be medically certified to be physically fit, where medical examination is possible, and that where such medical examination is not practicable the person employing such workers shall be held responsible for ensuring that they are physically fit and not suffering from any infectious or contagious disease, (c) the maximum load which these workers may carry, (d) the maximum distance from their homes to which they may be taken, (e) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their homes, and (f) the persons entitled to demand this form of forced or compulsory labour and the extent to which they are entitled to demand it.

2. In fixing the maxima referred to under the (c), (d) and (e) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions.

3. The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average working day of eight hours, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the road, the season and all other relevant factors, and that, where hours of journey in excess of the normal daily journey are exacted, they shall be remunerated at rates higher than the normal rates.

### Article 19

1. The competent authority shall only authorise recourse to compulsory cultivation as a method of precaution against famine or a deficiency of food supplies and always under the condition that the food or produce shall remain the property of the individuals or the community producing it.

2. Nothing in this Article shall be construed as abrogating the obligation on members of a community, where production is organised on a communal basis by virtue of law or custom and where the produce or any profit accruing from the sale thereof remain the property of the community, to perform the work demanded by the community by virtue of law or custom.

### Article 20

Collective punishment laws under which a community may be punished for crimes committed by any of its members shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment.

### Article 21

Forced or compulsory labour shall not be used for work underground in mines.

### Article 22

The annual reports that Members which ratify this Convention agree to make to the International Labour Office, pursuant to the provisions of article 22 of the Constitution of the International Labour Office, on the measures they have taken to give effect to the provisions of this Convention, shall contain as full information as possible, in respect of each territory concerned, regarding the extent to which recourse has been had to forced or compulsory labour in that territory, the purposes for which it has been employed, the sickness and death rates, hours of work, methods of payment of wages and rates of wages, and any other relevant information.

### Article 23

1. To give effect to the provisions of this Convention the competent authority shall issue complete and precise regulations governing the use of forced or compulsory labour.
2. These regulations shall contain, inter alia, rules permitting any person from whom forced or compulsory labour is exacted to forward all complaints relative to the conditions of labour to the authorities and ensuring that such complaints will be examined and taken into consideration.

### Article 24

Adequate measures shall in all cases be taken to ensure that the regulations governing the employment of forced or compulsory labour are strictly applied, either by extending the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour to cover the inspection of forced or compulsory labour or in some other appropriate manner. Measures shall also be taken to ensure that the regulations are brought to the knowledge of persons from whom such labour is exacted.

### Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

### Article 26

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority, so far as it has the right to accept obligations affecting matters of internal jurisdiction; provided that, if such Member may desire to take advantage of the provisions of article 35 of the Constitution of the International Labour Organisation, it shall append to its ratification a declaration stating:

(1) the territories to which it intends to apply the provisions of this Convention without modification;

(2) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications;

(3) the territories in respect of which it reserves its decision.

2. The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made, in pursuance of the provisions of subparagraphs (2) and (3) of this Article, in the original declaration.

## CONVENTION No. 87

### CONVENTION CONCERNING FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE

The General Conference of the International Labour Organisation,

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948;

Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the session;

Considering that the Preamble to the Constitution of the International Labour Organisation declares "recognition of the principle of freedom of association" to be a means of improving conditions of labour and of establishing peace;

Considering that the Declaration of Philadelphia reaffirms that "freedom of expression and of association are essential to sustained progress";

Considering that the International Labour Conference, at its Thirtieth Session, unanimously adopted the principles which should form the basis for international regulation;

Considering that the General Assembly of the United Nations, at its Second Session, endorsed these principles and requested the International Labour Organisation to continue every effort in order that it may be possible to adopt one or several international Conventions;

adopts this ninth day of July of the year one thousand nine hundred and forty-eight, the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

#### PART I FREEDOM OF ASSOCIATION

##### Article 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

##### Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

##### Article 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

#### Article 4

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

#### Article 5

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

#### Article 6

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

#### Article 7

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

#### Article 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

#### Article 9

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

#### Article 10

In this Convention the term "organisation" means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

## PART II PROTECTION OF THE RIGHT TO ORGANISE

### Article 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

## PART III MISCELLANEOUS PROVISIONS

Articles 12-13: Declarations of application to non-metropolitan territories.

## PART IV FINAL PROVISIONS

Articles 14-21: Standard final provisions

## **CONVENTION No. 98**

### **CONVENTION CONCERNING THE APPLICATION OF THE PRINCIPLES OF THE RIGHT TO ORGANISE AND TO BARGAIN COLLECTIVELY**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals concerning the application of the principles of the right to organise and to bargain collectively, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this first day of July of the year one thousand nine hundred and forty-nine, the following Convention, which may be cited as the Right to Organise and Collective Bargaining Convention, 1949:

#### Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Such protection shall apply more particularly in respect of acts calculated to:

(a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;

(b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

#### Article 2

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.

2. In particular, acts which are designed to promote the establishment of workers' organisations under the donation of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

### Article 3

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.

### Article 4

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

### Article 5

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

### Article 6

This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.

Articles 7, 8 and 11-16: Standard final provisions

Articles 9 and 10: Declarations of application to non-metropolitan territories



## **CONVENTION No. 100**

### **CONVENTION CONCERNING EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fourth Session on 6 June 1951, and

Having decided upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value, which is the seventh item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-ninth day of June of the year one thousand nine hundred and fifty-one, the following Convention, which may be cited as the Equal Remuneration Convention, 1951:

#### Article 1

For the purpose of this Convention:

(a) the term "remuneration" includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;

(b) the term "equal remuneration for men and women workers for work of equal value" refers to rates of remuneration established without discrimination based on sex.

#### Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

2. This principle may be applied by means of:

(a) national laws or regulations;

(b) legally established or recognised machinery for wage determination;

(c) collective agreements between employers and workers; or

(d) a combination of these various means.

### Article 3

1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.
2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.
3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

### Article 4

Each Member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of this Convention.

Articles 6 and 9-14: Standard final provisions

Articles 7 and 8: Declarations of application to non-metropolitan territories

## **CONVENTION No. 105**

### **CONVENTION CONCERNING THE ABOLITION OF FORCED LABOUR**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fortieth Session on 5 June 1957, and

Having considered the question of forced-labour, which is the fourth item on the agenda of the session, and

Having noted the provisions of the Forced Labour Convention, 1930, and

Having noted that the Slavery Convention, 1926, provides that all necessary measures shall be taken to prevent compulsory or forced labour from developing into conditions analogous to slavery and that the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956, provides for the complete abolition of debt bondage and serfdom, and

Having noted that the Protection of Wages Convention, 1949, provides that wages shall be paid regularly and prohibits methods of payment which deprive the worker of a genuine possibility of terminating his employment, and

Having decided upon the adoption of further proposals with regard to the abolition of certain forms of forced or compulsory labour constituting a violation of the rights of man referred to in the Charter of the United Nations and enunciated by the Universal Declaration of Human Rights, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-seven, the following Convention, which may be cited as the Abolition of Forced Labour Convention, 1957:

#### Article 1

Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour.:

- (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- (b) as a method of mobilising and using labour for purposes of economic development;
- (c) as a means of labour discipline;
- (d) as a punishment for having participated in strikes;
- (e) as a means of racial, social, national or religious discrimination.

Article 2

Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.

Articles 3-10: Standard final provisions.

## **CONVENTION No. 111**

### **CONVENTION CONCERNING DISCRIMINATION IN RESPECT OF EMPLOYMENT AND OCCUPATION**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office,  
and having met in its Forty-second Session on 4 June 1958, and

Having decided upon the adoption of certain proposals with regard to discrimination in the  
field of employment and occupation, which is the fourth item on the agenda of the session,  
and

Having determined that these proposals shall take the form of an international Convention and

Considering that the Declaration of Philadelphia affirms that all human beings, irrespective of  
race, creed or sex, have the right to pursue both their material well-being and their spiritual  
development in conditions of freedom and dignity, of economic security and equal  
opportunity, and

Considering further that discrimination constitutes a violation of rights enunciated by the  
Universal Declaration of Human Rights,

adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-eight, the  
following Convention, which may be cited as the Discrimination (Employment and  
Occupation) Convention, 1958:

#### Article 1

1. For the purpose of this Convention the term "discrimination" includes:

(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion,  
political opinion, national extraction or social origin, which has the effect of nullifying or  
impairing equality of opportunity or treatment in employment or occupation;

(b) such other distinction, exclusion or preference which has the effect of nullifying or  
impairing equality of opportunity or treatment in employment or occupation as may be  
determined by the Member concerned after consultation with representative employers and  
workers organisations, where such exist, and with other appropriate bodies.

2. Any distinction, exclusion or preference in respect of a particular job based on the inherent  
requirements thereof shall not be deemed to be discrimination.

3. For the purpose of this Convention the terms "employment" and "occupation" include  
access to vocational training, access to employment and to particular occupations, and terms  
and conditions of employment.

#### Article 2

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

### Article 3

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice:

- (a) to seek the co-operation of employers' and workers organisations and other appropriate bodies in promoting the acceptance and observance of this policy;
- (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (d) to pursue the policy in respect of employment under the direct control of a national authority;
- (e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- (f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

### Article 4

Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.

### Article 5

1. Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination.
2. Any Member may, after consultation with representative employers and workers' organisations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination.

Article 6

Each Member which ratifies this Convention undertakes to apply it to non-metropolitan territories in accordance with the provisions of the Constitution of the International Labour Organisation.

Articles 7-14: Standard final provisions

## CONVENTION No. 138

### CONVENTION CONCERNING MINIMUM AGE FOR ADMISSION TO EMPLOYMENT

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and

Having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Noting the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965 and

Considering that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three, the following Convention, which may be cited as the Minimum Age Convention. 1973:

#### Article 1

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

#### Article 2

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.

2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.



3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.

4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under Article 22 of the constitution of the International Labour Organisation a statement

(a) that its reason for doing so subsists; or

(b) that it renounces its right to avail itself of the provisions in question as from a stated date.

### Article 3

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.

2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.

3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

### Article 4

1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.

2. Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

#### Article 5

1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.

2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.

3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity; gas and water, sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

4. Any Member which has limited the scope of application of this Convention in pursuance of this Article

(a) shall indicate in its reports under Article 22 of the Constitution of the International Labour Organisation the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;

(b) may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

#### Article 6

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of

(a) a course of education or training for which a school or training institution is primarily responsible;

(b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or

(c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

## Article 7

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is

(a) not likely to be harmful to their health or development; and

(b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity, to benefit from the instruction received.

2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in subparagraphs (a) and (b) of paragraph 1 of this Article.

3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

## Article 8

1. After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.

2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

## Article 9

1. All necessary measures, including the provision of appropriate penalties shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.

3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

## Article 10

1. This Convention revises, on the terms set forth in this Article, the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised) 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised) 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965.
2. The coming into force of this Convention shall not close the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-industrial Employment) Convention (Revised), 1937, the Minimum age (Fishermen) Convention, 1959, or the Minimum Age (Underground Work) Convention, 1965, to further ratification.
3. The Minimum Age (Industry) Convention, 1919, the minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, and the Minimum Age (Trimmers and Stokers) Convention, 1921, shall be closed to further ratification when all the parties thereto have consented to such closing by ratification of this Convention or by a declaration communicated to the Director-General of the International Labour Office.
4. When the obligations of this Convention are accepted:
  - (a) by a Member which is a party to the Minimum Age (Industry) Convention (Revised), 1937, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall *ipso jure* involve the immediate denunciation of that Convention,
  - (b) in respect of non-industrial employment as defined in the Minimum Age (Non-industrial Employment) Convention, 1932, by a Member which is a party to that Convention, this shall *ipso jure* involve the immediate denunciation of that Convention,
  - (c) in respect of non-industrial employment as defined in the Minimum Age (Non-industrial Employment) Convention (Revised) 1937, by a Member which is a party to that Convention, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall *ipso jure* involve the immediate denunciation of that Convention,
  - (d) in respect of maritime employment by a Member which is a party to the minimum Age (Sea) Convention (Revised), 1936, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to maritime employment, this shall *ipso jure* involve the immediate denunciation of that Convention,
  - (e) in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the member specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall *ipso jure* involve the immediate denunciation of that Convention,

(f) by a Member which is a party to the minimum Age (Underground Work) Convention, 1965, and a minimum age of not less than the age specified in pursuance of that Convention is specified in pursuance of Article 2 of this Convention or the Member specifies that such an age applies to employment underground in mines in virtue of Article 3 of this Convention, this shall *ipso jure* involve the immediate denunciation of that Convention, if and when this Convention shall have come into force.

5. Acceptance of the obligations of this Convention:

(a) shall involve the denunciation of the Minimum Age (Industry) Convention 1919, in accordance with Article 12 thereof,

(b) in respect of agriculture shall involve the denunciation of the Minimum Age (Agriculture) Convention, 1921, in accordance with Article 9 thereof,

(c) in respect of maritime employment shall involve the denunciation of the Minimum Age (Sea) Convention, 1920, in accordance with Article 10 thereof, and of the Minimum Age (Trimmers and Stokers) Convention, 1921, in accordance with Article 12 thereof, if and when this Convention shall have come into force.

## **CONVENTION No. 182**

### **Worst Forms of Child Labour Convention**

#### **Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour**

The General Conference of the International Labour Organization

- Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999.
- Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour.
- Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families.
- Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996.
- Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education.
- Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989.
- Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998.
- Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956.
- Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session.
- Having determined that these proposals shall take the form of an international Convention. Adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention.

### Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

### Article 2

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

### Article 3

For the purposes of this Convention, the term *the worst forms of child labour* comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

### Article 4

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.
3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

### Article 5

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

### Article 6

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

### Article 7

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
  - (a) prevent the engagement of children in the worst forms of child labour;
  - (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
  - (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
  - (d) identify and reach out to children at special risk; and
  - (e) take account of the special situation of girls.
3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

### Article 8

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

### Article 9 – 16: final provisions



## **ILO Declaration on Fundamental Principles and Rights at Work**

86th Session, Geneva, June 1998

Whereas the ILO was founded in the conviction that social justice is essential to universal and lasting peace;

Whereas economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for the ILO to promote strong social policies, justice and democratic institutions;

Whereas the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development;

Whereas the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation;

Whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of Fundamental Principles and Rights at Work is of particular significance in that it enables the persons concerned, to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

Whereas the ILO is the constitutionally mandated international organization and the competent body to set and deal with international labour standards, and enjoys universal support and acknowledgement in promoting Fundamental Rights at Work as the expression of its constitutional principles;

Whereas it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the Fundamental Principles and Rights embodied in the Constitution of the Organization and to promote their universal application;

### **The International Labour Conference**

#### **1. Recalls:**

(a) that in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances;

(b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.

2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

3. Recognizes the obligation on the Organization to assist its Members, in response to their established and expressed needs, in order to attain these objectives by making full use of its constitutional, operational and budgetary resources, including, by the mobilization of external resources and support, as well as by encouraging other international organizations with which the ILO has established relations, pursuant to article 12 of its Constitution, to support these efforts:

(a) by offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions;

(b) by assisting those Members not yet in a position to ratify some or all of these Conventions in their efforts to respect, to promote and to realize the principles concerning fundamental rights which are the subject of these Conventions; and

(c) by helping the Members in their efforts to create a climate for economic and social development.

4. Decides that, to give full effect to this Declaration, a promotional follow-up, which is meaningful and effective, shall be implemented in accordance with the measures specified in the annex hereto, which shall be considered as an integral part of this Declaration.

5. Stresses that labour standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up

## Table of Ratification and Information concerning the ILO's Fundamental Conventions

(Situation September 2003)

- N° 29: Forced Labour Convention, 1930  
 N° 87: Freedom of Association and Protection of the Right to Organise Convention, 1948  
 N° 98: Right to Organise and Collective Bargaining Convention, 1949  
 N° 100: Equal Remuneration Convention 1951  
 N° 105: Abolition of Forced Labour Convention, 1957  
 N° 111: Discrimination (Employment and Occupation) Convention, 1958  
 N° 138: Minimum Age Convention, 1973  
 N° 182: Worst Forms of Child Labour Convention, 1999

	Forced labour		Freedom of association		Equal treatment		Minimum age	Child Labour
	C.29	C.105	C.87	C.98	C.100	C.111	C.138	C.182
Austria	x	x	x	x	x	x	x	x
Belgium	x	x	x	x	x	x	x	x
Bulgaria	x	x	x	x	x	x	x	x
Cyprus	x	x	x	x	x	x	x	x
Czech Republic	x	x	x	x	x	x		x
Denmark	x	x	x	x	x	x	x	x
Estonia	x	x	x	x	x			x
Finland	x	x	x	x	x	x	x	x
France	x	x	x	x	x	x	x	x
Germany	x	x	x	x	x	x	x	x
Greece	x	x	x	x	x	x	x	x
Hungary	x	x	x	x	x	x	x	x
Ireland	x	x	x	x	x	x	x	x
Italy	x	x	x	x	x	x	x	x
Latvia		x	x	x	x	x		
Lithuania	x	x	x	x	x	x	x	
Luxembourg	x	x	x	x	x	x	x	x
Malta	x	x	x	x	x	x	x	x
The Netherlands	x	x	x	x	x	x	x	x
Poland	x	x	x	x	x	x	x	x
Portugal	x	x	x	x	x	x	x	x
Romania	x	x	x	x	x	x	x	x
Slovakia	x	x	x	x	x	x	x	x
Slovenia	x	x	x	x	x	x	x	x
Spain	x	x	x	x	x	x	x	x
Sweden	x	x	x	x	x	x	x	x
Turkey	x	x	x	x	x	x	x	x
United Kingdom	x	x	x	x	x	x	x	x



## **Part IV**

### **Council of Europe**

- Convention for the protection of human rights and fundamental freedoms
- Protocol No.1 to the convention for the protection of human rights and fundamental freedoms as amended by Protocol No.11
- Protocol n° 4 to the convention for the protection of human rights and fundamental freedoms, securing certain rights and freedoms other than those already included in the convention and in the first protocol thereto
- Protocol No.12 to the convention for the protection of human rights and fundamental freedoms
- European Social Charter of 1961
- Appendix to the Social Charter
- Additional protocol to the European Social Charter
- Appendix to the protocol
- Revised European Social Charter
- Appendix to the revised European Social Charter
- Tables of ratification
- European Social Charter
- Additional protocol to the European Social Charter
- European Social Charter (revised)



## **CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

The Governments signatory hereto, being Members of the Council of Europe,

Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10th December 1948;

Considering that this Declaration aims at securing the universal and effective recognition and observance of the Rights therein declared;

Considering that the aim of the Council of Europe is the achievement of greater unity between its Members and that one of the methods by which that aim is to be pursued is the maintenance and further realisation of Human Rights and Fundamental Freedoms;

Reaffirming their profound belief in those Fundamental Freedoms which are the foundation of justice and peace in the world and are best maintained on the one hand by an effective political democracy and on the other by a common understanding and observance of the Human Rights upon which they depend;

Being resolved, as the Governments of European countries which are like-minded and have a common heritage of political traditions, ideals, freedom and the rule of law, to take the first steps for the collective enforcement of certain of the Rights stated in the Universal Declaration.

Have agreed as follows:

### Article 1

The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section 1 of this Convention.

### Article 2-3

(...)

### Article 4

1. No one shall be held in slavery or servitude
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the term "forced or compulsory labour" shall not include:
  - a. Any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
  - b. Any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;

c. Any service exacted in case of an emergency or calamity threatening the life or well-being of the community;

d. Any work or service which forms part of normal civic obligations.

#### Article 11

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

#### Article 14

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.



## **PROTOCOL NO. 1**

### **TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AS AMENDED BY PROTOCOL NO. 11**

(Paris, 20.III.1952; Headings of articles added and text amended according to the provisions of Protocol No. 11 (ETS No. 155), as of its entry into force, on 1 November 1998)

The governments signatory hereto, being members of the Council of Europe,

Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section I of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as “the Convention”),

Have agreed as follows:

#### Article 1 – Protection of property

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

#### Article 2 – Right to education

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

#### Article 3 – Right to free elections

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

#### Article 4 - 6

## **PROTOCOL No. 4**

### **TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, SECURING CERTAIN RIGHTS AND FREEDOMS OTHER THAN THOSE ALREADY INCLUDED IN THE CONVENTION AND IN THE FIRST PROTOCOL THERETO**

The Governments signatory hereto, being Members of the Council of Europe,  
Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in Section I of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950 (hereinafter referred to as "the Convention") and in Articles 1 to 3 of the First Protocol to the Convention, signed at Paris on 20th March 1952,

Have agreed as follows:

#### Article 1

No one shall be deprived of his liberty merely on the ground of inability to fulfil a contractual obligation.

#### Article 2

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own
3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of order public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
4. The rights set forth in paragraph 1 may also be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society.

#### Article 3

1. No one shall be expelled, by means either of an individual or of a collective measure, from the territory of the State of which he is a national.
2. No one shall be deprived of the right to enter the territory of the State of which he is a national.

#### Article 4

Collective expulsion of aliens is prohibited.

#### Article 5 - 7

## **PROTOCOL No. 12**

### **TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS**

The member States of the Council of Europe signatory hereto,

Having regard to the fundamental principle according to which all persons are equal before the law and are entitled to the equal protection of the law;

Being resolved to take further steps to promote the equality of all persons through the collective enforcement of a general prohibition of discrimination by means of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as “the Convention”);

Reaffirming that the principle of non-discrimination does not prevent States Parties from taking measures in order to promote full and effective equality, provided that there is an objective and reasonable justification for those measures,

Have agreed as follows:

#### Article 1 – General prohibition of discrimination

- 1 The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.
- 2 No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.

#### Article 2 – 6

## EUROPEAN SOCIAL CHARTER OF 18 OCTOBER 1961

The Governments signatory hereto, being Members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its Members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;

Considering that in the European Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950, and the Protocol thereto signed at Paris on 20th March 1952, the member States of the Council of Europe agreed to secure to their populations the civil and political rights and freedoms therein specified;

Considering that the enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin;

Being resolved to make every effort in common to improve the standard of living and to promote the social well-being of both their urban and rural populations by means of appropriate institutions and action.

Have agreed as follows:

### PART I

The Contracting Parties accept as the aim of their policy, to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

1. Everyone shall have the opportunity to earn his living in an occupation freely entered upon.
2. All workers have the right to just conditions of work.
3. All workers have the right to safe and healthy working conditions.
4. All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.
5. All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.
6. All workers and employers have the right to bargain collectively.
7. Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.
8. Employed women, in case of maternity, and other employed women as appropriate, have the right to a special protection in their work.

9. Everyone has the right to appropriate facilities for vocational guidance with a view to helping him choose an occupation suited to his personal aptitude and interests.
10. Everyone has the right to appropriate facilities for vocational training.
11. Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.
12. All workers and their dependents have the right to social security.
13. Anyone without adequate resources has the right to social and medical assistance.
14. Everyone has the right to benefit from social welfare services.
15. Disabled persons have the right to vocational training, rehabilitation and resettlement, whatever the origin and nature of their disability.
16. The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.
17. Mothers and children, irrespective of marital status and family relations, have the right to appropriate social and economic protection.
18. The nationals of any one of the Contracting Parties have the right to engage in any gainful occupation in the territory of any one of the others on a footing of equality with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.
19. Migrant workers who are nationals of a Contracting Party and their families have the right to protection and assistance in the territory of any other Contracting Party.

## PART II

The Contracting Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following Articles and paragraphs.

### Article 1: The right to work.

With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake:

1. to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
2. to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
3. to establish or maintain free employment services for all workers;
4. to provide or promote appropriate vocational guidance, training and rehabilitation

Article 2: The right to just conditions of work.

With a view to ensuring the effective exercise of the right to just conditions of work, the Contracting Parties undertake:

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;
2. to provide for public holidays with pay;
3. to provide for a minimum of two weeks annual holiday with pay;
4. to provide for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations as prescribed;
5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest

Article 3: The right to safe and healthy working conditions.

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Contracting Parties undertake:

1. to issue safety and health regulations;
2. to provide for the enforcement of such regulations by measures of supervision;
3. to consult, as appropriate, employers' and workers' organisations on measures intended to improve industrial safety and health.

Article 4: The right to a fair remuneration.

With a view to ensuring the effective exercise of the right to a fair remuneration, the Contracting Parties undertake:

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;
2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
3. to recognise the right of men and women workers to equal pay for work of equal value;
4. to recognise the right of all workers to a reasonable period of notice for termination of employment;
5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

Article 5: The right to organise.

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this Article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

Article 6: The right to bargain collectively.

With a view to ensuring the effective exercise of the right to bargain collectively, the Contracting Parties undertake:

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise:

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

Article 7: The right of children and young persons to protection.

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Contracting Parties undertake:

1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;
2. to provide that a higher minimum age of admission to employment shall be fixed with respect to prescribed occupations regarded as dangerous or unhealthy;
3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;

4. to provide that the working hours of persons under 16 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;
5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;
6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;
7. to provide that employed persons of under 18 years of age shall be entitled to not less than three weeks annual holiday with pay;
8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;
9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;
10. to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

Article 8: The right of employed women to protection.

With a view to ensuring the effective exercise of the right of employed women to protection, the Contracting Parties undertake:

1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for women to take leave before and after childbirth up to a total of at least 12 weeks;
2. to consider it as unlawful for an employer to give a woman notice of dismissal during her absence on maternity leave or to give her notice of dismissal at such a time that the notice would expire during such absence;
3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;
4. (a) to regulate the employment of women workers on night work in industrial employment;  
(b) to prohibit the employment of women workers in underground mining, and, as appropriate, on all other work which is unsuitable for them by reason of its dangerous, unhealthy, or arduous nature.

Article 9: The right to vocational guidance.

With a view to ensuring the effective exercise of the right to vocational guidance, the Contracting Parties undertake to provide or promote, as necessary, a service which will assist



all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including school children, and to adults.

Article 10: The right to vocational training.

With a view to ensuring the effective exercise of the right to vocational training, the Contracting Parties undertake:

1. to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;
2. to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
3. to provide or promote, as necessary:
  - (a) adequate and readily available training facilities for adult workers;
  - (b) special facilities for the re-training of adult workers needed as a result of technological development or new trends in employment;
4. to encourage the full utilisation of the facilities provided by appropriate measures such as:
  - (a) reducing or abolishing any fees or charges;
  - (b) granting financial assistance in appropriate cases;
  - (c) including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
  - (d) ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

Article 11: The right to protection of health.

With a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed *inter alia*.

1. to remove as far as possible the causes of ill-health;
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
3. to prevent as far as possible epidemic, endemic and other diseases

Article 12: The right to social security.

With a view to ensuring the effective exercise of the right to social security, the Contracting Parties undertake:

1. to establish or maintain a system of social security;
2. to maintain the social security system at a satisfactory level at least equal to that required for ratification of International Labour Convention (No. 109) Concerning Minimum Standards of Social Security;
3. to endeavour to raise progressively the system of social security to a higher level;
4. to take steps, by the conclusion of appropriate bilateral and multilateral agreements, or by other means, and subject to the conditions laid down in such agreements, in order to ensure:
  - (a) equal treatment with their own nationals of the nationals of other Contracting Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Contracting Parties;
  - (b) the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Contracting Parties.

Article 13: The right to social and medical assistance.

With a view to ensuring the effective exercise of the right to social and medical assistance, the Contracting Parties undertake:

1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;
2. to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
3. to provide that every one may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
4. to apply the provisions referred to in paragraphs 1, 2 and 3 of this Article on an equal footing with their nationals to nationals of other Contracting Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11th December 1953.

Article 14: The right to benefit from social welfare services.

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Contracting Parties undertake:

1. to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;
2. to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

Article 15: The right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement.

With a view to ensuring the effective exercise of the right of the physically or mentally disabled to vocational training, rehabilitation and resettlement, the Contracting Parties undertake:

1. to take adequate measures for the provision of training facilities, including, where necessary, specialised institutions, public or private;
2. to take adequate measures for the placing of disabled persons in employment, such as specialised placing services, facilities for sheltered employment and measures to encourage employers to admit disabled persons to employment.

Article 16: The right of the family to social, legal and economic protection.

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and other appropriate means.

Article 17: The right of mothers and children to social and economic protection.

With a view to ensuring the effective exercise of the right of mothers and children to social and economic protection, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.

Article 18: The right to engage in a gainful occupation in the territory of other contracting parties.

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Contracting Party, the Contracting Parties undertake:

1. to apply existing regulations in a spirit of liberality;

2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;

3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;

and recognise:

4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Contracting Parties.

Article 19: The right of migrant workers and their families to protection and assistance.

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Contracting Party, the Contracting Parties undertake:

1. to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

3. to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;

4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

(a) remuneration and other employment and working conditions;

(b) membership of trade unions and enjoyment of the benefits of collective bargaining;

(c) accommodation;

5. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;

6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;

7. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this Article;

8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers, as they may desire;

10. to extend the protection and assistance provided for in this Article to self-employed migrants insofar as such measures apply.

### PART III – PART V

#### Article 20-Article 37

#### Article 38: Appendix.

The Appendix to this Charter shall form an integral part of it.

## APPENDIX TO THE SOCIAL CHARTER

### *Scope of the Social Charter in terms of persons protected:*

1. Without prejudice to Article 12, paragraph 4 and Article 13, paragraph 4, the persons covered by Articles 1 to 17 include foreigners only insofar as they are nationals of other Contracting Parties lawfully resident or working regularly within the territory of the Contracting Party concerned, subject to the understanding that these Articles are to be interpreted in the light of the provisions of Articles 18 and 19.

This interpretation would not prejudice the extension of similar facilities to other persons by any of the Contracting Parties.

2. Each Contracting Party will grant to refugees as defined in the Convention relating to the Status of Refugees, signed at Geneva on 28th July 1951, and lawfully staying in its territory, treatment as favourable as possible, and in any case not less favourable than under the obligations accepted by the Contracting Party under the said Convention and under any other existing international instruments applicable to those refugees.

### PART I, Paragraph 18 and PART II, Article 18, paragraph 1

It is understood that these provisions are not concerned with the question of entry into the territories of the Contracting Parties and do not prejudice the provisions of the European Convention on Establishment, signed at Paris on 13th December 1955.

### PART II

#### Article 1, paragraph 2

This provision shall not be interpreted as prohibiting or authorising any union Security clause or practice.

#### Article 4, paragraph 4

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

#### Article 4, paragraph 5

It is understood that a Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exceptions being those persons not so covered.

#### Article 6, paragraph 4

It is understood that each Contracting Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article 31.

Article 7, paragraph 8

It is understood that a Contracting Party may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under 18 years of age shall not be employed in night work.

Article 12, paragraph 4

The words "and subject to the conditions laid down in such agreements" in the introduction to this paragraph are taken to imply *inter alia* that with regard to benefits which are available independently of any insurance contribution a Contracting Party may require the completion of a prescribed period of residence before granting such benefits to nationals of other Contracting Parties.

Article 13, paragraph 4

Governments not Parties to the European Convention on Social and Medical Assistance may ratify the Social Charter in respect of this paragraph provided that they grant to nationals of other Contracting Parties a treatment which is in conformity with the provisions of the said Convention.

Article 19, paragraph 6

For the purpose of this provision, the term "family of a foreign worker" is understood to mean at least his wife and dependent children under the age of 21 years.

## PART III

It is understood that the Charter contains legal obligations of an international character, the application of which is submitted solely to the supervision provided for in Part IV thereof.

Article 20, paragraph 1

It is understood that the "numbered paragraphs" may include Articles consisting of only one paragraph.

## PART V

Article 30

The term "in time of war or other public emergency" shall be so understood as to cover also the *threat* of war.

## **ADDITIONAL PROTOCOL TO THE EUROPEAN SOCIAL CHARTER**

STRASBOURG, 5.V.1988

### **PREAMBLE**

The member States of the Council of Europe signatory hereto,

Resolved to take new measures to extend the protection of the social and economic rights guaranteed by the European Social Charter, opened for signature in Turin on 18 October 1961 (hereinafter referred to as "the Charter"),

Have agreed as follows:

### **PART I**

The Parties accept as the aim of their policy to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

1. All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.
2. Workers have the right to be informed and to be consulted within the undertaking.
3. Workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking.
4. Every elderly person has the right to social protection

### **PART II**

The Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following articles:

Article 1: Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

1. With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

- access to employment, protection against dismissal and occupational resettlement;
- vocational guidance, training, retraining and rehabilitation;
- terms of employment and working conditions including remuneration;
- career development including promotion.



2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall not be deemed to be discrimination as referred to in paragraph 1 of this Article.

3. Paragraph 1 of this Article shall not prevent the adoption of specific measures aimed at removing de facto inequalities.

4. Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this Article or some of its provisions.

#### Article 2: Right to information and consultation

1. With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and

b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

2. The Parties may exclude from the field of application of paragraph 1 of this Article, those undertakings employing less than a certain number of workers to be determined by national legislation or practice.

#### Article 3: Right to take part in the determination and improvement of the working conditions and working environment

1. With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

a. to the determination and the improvement of the working conditions, work organisation and working environment;

b. to the protection of health and safety within the undertaking;

c. to the organisation of social and socio-cultural services and facilities within the undertaking;

d. to the supervision of the observance of regulations on these matters.

2. The Parties may exclude from the field of application of paragraph 1 of this Article, those undertakings employing less than a certain number of workers to be determined by national legislation or practice.

Article 4: Right of elderly persons to social protection

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

1. to enable elderly persons to remain full members of society for as long as possible, by means of:
  - a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
  - b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them;
2. to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:
  - a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;
  - b. the health care and the services necessitated by their state;
3. to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.

PART III – PART V

Article 5-Article 12

Article 13: Appendix

The Appendix to this Protocol shall form an integral part of it.

## APPENDIX TO THE PROTOCOL

### *Scope of the Protocol in terms of persons protected*

1. The persons covered by Articles 1 to 4 include foreigners only insofar as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned subject to the understanding that these articles are to be interpreted in the light of the provisions of Articles 18 and 19 of the Charter.

This interpretation would not prejudice the extension of similar facilities to other persons by any of the Parties.

2. Each Party will grant to refugees as defined in the Convention relating to the Status of Refugees, signed at Geneva on 28 July 1951 and in the Protocol of 31 January 1967, and lawfully staying in its territory, treatment as favourable as possible and in any case not less favourable than under the obligations accepted by the Party under the said instruments and under any other existing international instruments applicable to those refugees.

3. Each Party will grant to stateless persons as defined in the Convention on the Status of Stateless Persons done at New York on 28 September 1954 and lawfully staying in its territory, treatment as favourable as possible and in any case not less favourable than under the obligations accepted by the Party under the said instrument and under any other existing international instruments applicable to those stateless persons.

### Article 1

It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit may be excluded from the scope of this Article.

### Article 1, paragraph 4

This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

### Articles 2 and 3

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

2. The term "national legislation and practice" embraces, as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs, as well as relevant case law.

3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to a set of tangible and intangible components, with or without legal personality. Formed to produce goods or provide services for financial gain and with power to determine its own market policy.

4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.

5. It is understood that where in a State the rights set out in Articles 2 and 3 are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.

### Article 3

This provision affects neither the powers and obligations of States as regards the adoption of health and safety regulations for work places, nor the powers and responsibilities of the bodies in charge of monitoring their application.

The terms "social and socio-cultural services and facilities" are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children's holiday camps, etc.

### Article 4, paragraph 1

For the purpose of the application of this paragraph, the term "for as long as possible" refers to the elderly person's physical, psychological and intellectual capacities.

### Article 7

It is understood that workers excluded in accordance with paragraph 2 of Article 2 and paragraph 2 of Article 3 are not taken into account in establishing the number of workers concerned.

## REVISED EUROPEAN SOCIAL CHARTER

Strasbourg, 3.V.1996

The governments signatory hereto, being members of the Council of Europe,

Considering that the aim of the Council of Europe is the achievement of greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and of facilitating their economic and social progress, in particular by the maintenance and further realisation of human rights and fundamental freedoms;

Considering that in the European Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950, and the Protocols thereto, the member States of the Council of Europe agreed to secure to their populations the civil and political rights and freedoms therein specified;

Considering that in the European Social Charter opened for signature in Turin on 18 October 1961 and the Protocols thereto, the member States of the Council of Europe agreed to secure to their populations the social rights specified therein in order to improve their standard of living and their social well-being;

Recalling that the Ministerial Conference on Human Rights held in Rome on 5 November 1990 stressed the need, on the one hand, to preserve the indivisible nature of all human rights, be they civil, political, economic, social or cultural and, on the other hand, to give the European Social Charter fresh impetus;

Resolved, as was decided during the Ministerial Conference held in Turin on 21 and 22 October 1991, to update and adapt the substantive contents of the Charter in order to take account in particular of the fundamental social changes which have occurred since the text was adopted;

Recognising the advantage of embodying in a Revised Charter, designed progressively to take the place of the European Social Charter, the rights guaranteed by the Charter as amended, the rights guaranteed by the Additional Protocol of 1988 and to add new rights,

Have agreed as follows:

### PART I

The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised:

1. Everyone shall have the opportunity to earn his living in an occupation freely entered upon.
2. All workers have the right to just conditions of work.
3. All workers have the right to safe and healthy working conditions.

4. All workers have the right to a fair remuneration sufficient for a decent standard of living for themselves and their families.
5. All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.
6. All workers and employers have the right to bargain collectively.
7. Children and young persons have the right to a special protection against the physical and moral hazards to which they are exposed.
8. Employed women, in case of maternity, have the right to a special protection.
9. Everyone has the right to appropriate facilities for vocational guidance with a view to helping him choose an occupation suited to his personal aptitude and interests.
10. Everyone has the right to appropriate facilities for vocational training.
11. Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.
12. All workers and their dependents have the right to social security.
13. Anyone without adequate resources has the right to social and medical assistance.
14. Everyone has the right to benefit from social welfare services.
15. Disabled persons have the right to independence, social integration and participation in the life of the community.
16. The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.
17. Children and young persons have the right to appropriate social, legal and economic protection.
18. The nationals of any one of the Parties have the right to engage in any gainful occupation in the territory of any one of the others on a footing of equality with the nationals of the latter, subject to restrictions based on cogent economic or social reasons.
19. Migrant workers who are nationals of a Party and their families have the right to protection and assistance in the territory of any other Party.
20. All workers have the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex.
21. Workers have the right to be informed and to be consulted within the undertaking.
22. Workers have the right to take part in the determination and improvement of the working conditions and working environment in the undertaking.

23. Every elderly person has the right to social protection.
24. All workers have the right to protection in cases of termination of employment.
25. All workers have the right to protection of their claims in the event of the insolvency of their employer.
26. All workers have the right to dignity at work.
27. All persons with family responsibilities and who are engaged or wish to engage in employment have a right to do so without being subject to discrimination and as far as possible without conflict between their employment and family responsibilities.
28. Workers' representatives in undertakings have the right to protection against acts prejudicial to them and should be afforded appropriate facilities to carry out their functions.
29. All workers have the right to be informed and consulted in collective redundancy procedures.
30. Everyone has the right to protection against poverty and social exclusion.
31. Everyone has the right to housing.

## PART II

The Parties undertake, as provided for in Part III, to consider themselves bound by the obligations laid down in the following articles and paragraphs.

### Article 1: The right to work

With a view to ensuring the effective exercise of the right to work, the Parties undertake:

1. to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;
2. to protect effectively the right of the worker to earn his living in an occupation freely entered upon;
3. to establish or maintain free employment services for all workers;
4. to provide or promote appropriate vocational guidance, training and rehabilitation.

### Article 2: The right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;

2. to provide for public holidays with pay;
3. to provide for a minimum of four weeks' annual holiday with pay;
4. to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;
5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;
6. to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;
7. to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

#### Article 3: The right to safe and healthy working conditions

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers' and workers' organisations:

1. to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment;
2. to issue safety and health regulations;
3. to provide for the enforcement of such regulations by measures of supervision;
4. to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions.

#### Article 4: The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;
2. to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;
3. to recognise the right of men and women workers to equal pay for work of equal value;



4. to recognise the right of all workers to a reasonable period of notice for termination of employment;

5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

#### Article 5: The right to organise

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

#### Article 6: The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

1. to promote joint consultation between workers and employers;
2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

and recognise:

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

#### Article 7: The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

1. to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;

2. to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;
3. to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;
4. to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;
5. to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances;
6. to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;
7. to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;
8. to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;
9. to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control;
10. to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work.

Article 8: The right of employed women to protection of maternity

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:

1. to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to, a total of at least fourteen weeks;
2. to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;
3. to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;
4. to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;

5. to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate measures to protect the employment rights of these women.

#### Article 9: The right to vocational guidance

With a view to ensuring the effective exercise of the right to vocational guidance, the Parties undertake to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity; this assistance should be available free of charge, both to young persons, including schoolchildren, and to adults.

#### Article 10: The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake:

1. to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;
2. to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;
3. to provide or promote, as necessary:
  - a. adequate and readily available training facilities for adult workers;
  - b. special facilities for the retraining of adult workers needed as a result of technological development or new trends in employment;
4. to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed;
5. to encourage the full utilisation of the facilities provided by appropriate measures such as:
  - a. reducing or abolishing any fees or charges;
  - b. granting financial assistance in appropriate cases;
  - c. including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;
  - d. ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other training arrangements for young workers, and the adequate protection of young workers generally.

Article 11: The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed *inter alia*:

1. to remove as far as possible the causes of ill-health;
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents

Article 12: The right to social security

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

1. to establish or maintain a system of social security;
2. to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security;
3. to endeavour to raise progressively the system of social security to a higher level;
4. to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure:
  - a. equal treatment with their own nationals of the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties;
  - b. the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties.

Article 13: The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;
2. to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;

3. to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;

4. to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.

#### Article 14: The right to benefit from social welfare services

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:

1. to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;

2. to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

#### Article 15: The right of persons with disabilities to independence, social integration and participation in the life of the community

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

1. to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;

2. to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;

3. to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

#### Article 16: The right of the family to social, legal and economic protection

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

Article 17: The right of children and young persons to social, legal and economic protection

1. With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;

b. to protect children and young persons against negligence, violence or exploitation;

c. to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;

2. to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

Article 18: The right to engage in a gainful occupation in the territory of other Parties

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

1. to apply existing regulations in a spirit of liberality;

2. to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;

3. to liberalise, individually or collectively, regulations governing the employment of foreign workers;

and recognise:

4. the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties.

Article 19: The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:

1. to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;

2. to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;

3. to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;

4. to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:

a. remuneration and other employment and working conditions;

b. membership of trade unions and enjoyment of the benefits of collective bargaining;

c. accomodation;

5. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;

6. to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;

7. to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;

8. to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;

9. to permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;

10. to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply;

11. to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;

12. to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

Article 20: The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

- a. access to employment, protection against dismissal and occupational reintegration;
- b. vocational guidance, training, retraining and rehabilitation;
- c. terms of employment and working conditions, including remuneration;
- d. career development, including promotion.

Article 21: The right to information and consultation

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

- a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and
- b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

Article 22: The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a. to the determination and the improvement of the working conditions, work organisation and working environment;
- b. to the protection of health and safety within the undertaking;
- c. to the organisation of social and socio-cultural services and facilities within the undertaking;
- d. to the supervision of the observance of regulations on these matters.



Article 23: The right of elderly persons to social protection

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

- to enable elderly persons to remain full members of society for as long as possible, by means of:
  - a. adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
  - b. provision of information about services and facilities available for elderly persons and their opportunities to make use of them;
- to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:
  - a. provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;
  - b. the health care and the services necessitated by their state;
- guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.

Article 24: The right to protection in cases of termination of employment

With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

- a. the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;
- b. the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.

Article 25: The right of workers to the protection of their claims in the event of the insolvency of their employer

With a view to ensuring the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, the Parties undertake to provide that workers' claims arising from contracts of employment or employment relationships be guaranteed by a guarantee institution or by any other effective form of protection.

Article 26: The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations:

1. to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;
2. to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

Article 27: The right of workers with family responsibilities to equal opportunities and equal treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

1. to take appropriate measures:
  - a. to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;
  - b. to take account of their needs in terms of conditions of employment and social security;
  - c. to develop or promote services, public or private, in particular child day-care services and other childcare arrangements;
2. to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;
3. to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

Article 28: The right of workers' representatives to protection in the undertaking and facilities to be accorded to them

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

- a. they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;
- b. they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

Article 29: The right to information and consultation in collective redundancy procedures

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

Article 30: The right to protection against poverty and social exclusion

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;
- b. to review these measures with a view to their adaptation if necessary.

Article 31: The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1. to promote access to housing of an adequate standard;
2. to prevent and reduce homelessness with a view to its gradual elimination;
3. to make the price of housing accessible to those without adequate resources.

PART III – PART VI

Article A-Article O

## APPENDIX TO THE REVISED EUROPEAN SOCIAL CHARTER

### Scope of the Revised European Social Charter in terms of persons protected

1. Without prejudice to Article 12, paragraph 4, and Article 13, paragraph 4, the persons covered by Articles 1 to 17 and 20 to 31 include foreigners only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned, subject to the understanding that these articles are to be interpreted in the light of the provisions of Articles 18 and 19.

This interpretation would not prejudice the extension of similar facilities to other persons by any of the Parties.

2. Each Party will grant to refugees as defined in the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 and in the Protocol of 31 January 1967, and lawfully staying in its territory, treatment as favourable as possible, and in any case not less favourable than under the obligations accepted by the Party under the said convention and under any other existing international instruments applicable to those refugees.

3. Each Party will grant to stateless persons as defined in the Convention on the Status of Stateless Persons done in New York on 28 September 1954 and lawfully staying in its territory, treatment as favourable as possible and in any case not less favourable than under the obligations accepted by the Party under the said instrument and under any other existing international instruments applicable to those stateless persons.

PART I, paragraph 18, and PART II, Article 18, paragraph 1

It is understood that these provisions are not concerned with the question of entry into the territories of the Parties and do not prejudice the provisions of the European Convention on Establishment, signed in Paris on 13 December 1955.

### PART II

#### Article 1, paragraph 2

This provision shall not be interpreted as prohibiting or authorising any union security clause or practice.

#### Article 2, paragraph 6

Parties may provide that this provision shall not apply:

a to workers having a contract or employment relationship with a total duration not exceeding one month and/or with a working week not exceeding eight hours;

b where the contract or employment relationship is of a casual and/or specific nature, provided, in these cases, that its non-application is justified by objective considerations.

Article 3, paragraph 4

It is understood that for the purposes of this provision the functions, organisation and conditions of operation of these services shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

Article 4, paragraph 4

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

Article 4, paragraph 5

It is understood that a Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exceptions being those persons not so covered.

Article 6, paragraph 4

It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

Article 7, paragraph 2

This provision does not prevent Parties from providing in their legislation that young persons not having reached the minimum age laid down may perform work in so far as it is absolutely necessary for their vocational training where such work is carried out in accordance with conditions prescribed by the competent authority and measures are taken to protect the health and safety of these young persons.

Article 7, paragraph 8

It is understood that a Party may give the undertaking required in this paragraph if it fulfils the spirit of the undertaking by providing by law that the great majority of persons under eighteen years of age shall not be employed in night work.

Article 8, paragraph 2

This provision shall not be interpreted as laying down an absolute prohibition. Exceptions could be made, for instance, in the following cases:

- a. if an employed woman has been guilty of misconduct which justifies breaking off the employment relationship;
- b. if the undertaking concerned ceases to operate;
- c. if the period prescribed in the employment contract has expired.

Article 12, paragraph 4

The words "and subject to the conditions laid down in such agreements" in the introduction to this paragraph are taken to imply *inter alia* that with regard to benefits which are available independently of any insurance contribution, a Party may require the completion of a prescribed period of residence before granting such benefits to nationals of other Parties.

Article 13, paragraph 4

Governments not Parties to the European Convention on Social and Medical Assistance may ratify the Charter in respect of this paragraph provided that they grant to nationals of other Parties a treatment which is in conformity with the provisions of the said convention.

Article 16

It is understood that the protection afforded in this provision covers single-parent families.

Article 17

It is understood that this provision covers all persons below the age of 18 years, unless under the law applicable to the child majority is attained earlier, without prejudice to the other specific provisions provided by the Charter, particularly Article 7.

This does not imply an obligation to provide compulsory education up to the abovementioned age.

Article 19, paragraph 6

For the purpose of applying this provision, the term "family of a foreign worker" is understood to mean at least the worker's spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker.

Article 20

1. It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit, may be excluded from the scope of this article
2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall not be deemed to be discrimination as referred to in this article.
3. This article shall not prevent the adoption of specific measures aimed at removing *de facto* inequalities.
4. Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this article or some of its provisions. This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

## Articles 21 and 22

1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.
2. The terms "national legislation and practice" embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs as well as relevant case law.
3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or provide services for financial gain and with power to determine its own market policy.
4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.
5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.
6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

## Article 22

1. This provision affects neither the powers and obligations of states as regards the adoption of health and safety regulations for workplaces, nor the powers and responsibilities of the bodies in charge of monitoring their application.
2. The terms "social and socio-cultural services and facilities" are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children's holiday camps, etc.

## Article 23, paragraph 1

For the purpose of the application of this paragraph, the term "for as long as possible" refers to the elderly person's physical, psychological and intellectual capacities.

## Article 24

1. It is understood that for the purposes of this article the terms "termination of employment" and "terminated" mean termination of employment at the initiative of the employer.

2. It is understood that this article covers all workers but that a Party may exclude from some or all of its protection the following categories of employed persons:

- a. workers engaged under a contract of employment for a specified period of time or a specified task;
- b. workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration;
- c. workers engaged on a casual basis for a short period.

3. For the purpose of this article the following, in particular, shall not constitute valid reasons for termination of employment:

- a. trade union membership or participation in union activities outside working hours, or, with the consent of the employer, within working hours;
- b. seeking office as, acting or having acted in the capacity of a workers' representative;
- c. the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
- d. race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
- e. maternity or parental leave;
- f. temporary absence from work due to illness or injury.

4. It is understood that compensation or other appropriate relief in case of termination of employment without valid reasons shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

#### Article 25

1. It is understood that the competent national authority may, by way of exemption and after consulting organisations of employers and workers, exclude certain categories of workers from the protection provided in this provision by reason of the special nature of their employment relationship.

2. It is understood that the definition of the term "insolvency" must be determined by national law and practice.

3. The workers' claims covered by this provision shall include at least:

- a. the workers' claims for wages relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or to the termination of employment;



b. the workers' claims for holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred;

c. the workers' claims for amounts due in respect of other types of paid absence relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or the termination of the employment.

4. National laws or regulations may limit the protection of workers' claims to a prescribed amount, which shall be of a socially acceptable level.

#### Article 26

It is understood that this article does not require that legislation be enacted by the Parties.

It is understood that paragraph 2 does not cover sexual harassment.

#### Article 27

It is understood that this article applies to men and women workers with family responsibilities in relation to their dependent children as well as in relation to other members of their immediate family who clearly need their care or support where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity. The terms "dependent children" and "other members of their immediate family who clearly need their care and support" mean persons defined as such by the national legislation of the Party concerned.

#### Articles 28 and 29

For the purpose of the application of this article, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

### PART III

It is understood that the Charter contains legal obligations of an international character, the application of which is submitted solely to the supervision provided for in PART IV thereof.

#### Article A, paragraph 1

It is understood that the numbered paragraphs may include articles consisting of only one paragraph.

#### Article B, paragraph 2

For the purpose of paragraph 2 of Article B, the provisions of the revised Charter correspond to the provisions of the Charter with the same article or paragraph number with the exception of:

a. Article 3, paragraph 2, of the revised Charter which corresponds to Article 3, paragraphs 1 and 3, of the Charter;

- b. Article 3, paragraph 3, of the revised Charter which corresponds to Article 3, paragraphs 2 and 3, of the Charter;
- c. Article 10, paragraph 5, of the revised Charter which corresponds to Article 10, paragraph 4, of the Charter;
- d. Article 17, paragraph 1, of the revised Charter which corresponds to Article 17 of the Charter.

## PART V

### Article E

A differential treatment based on an objective and reasonable justification shall not be deemed discriminatory.

### Article F

The terms “in time of war or other public emergency” shall be so understood as to cover also the *threat* of war.

### Article I

It is understood that workers excluded in accordance with the appendix to Articles 21 and 22 are not taken into account in establishing the number of workers concerned.

### Article J

The term “amendment” shall be extended so as to cover also the addition of new articles to the Charter.

## EUROPEAN SOCIAL CHARTER

Situation on: June 2003

MEMBER STATES	Date of Signature	Date of Ratification or Accession	Date of entry into force
AUSTRIA	22/07/63	29/10/69	28/11/69
BELGIUM	18/10/61	16/10/90	15/11/90
BULGARIA			
CYPRUS	22/05/67	07/03/68	06/04/68
CZECH REP.	27/05/92 (i)	03/11/99	03/12/99
DENMARK	18/10/61	03/03/65	02/04/65
ESTONIA			
FINLAND	09/02/90	29/04/91	29/05/91
FRANCE	18/10/61	09/03/73	08/04/73
GERMANY	18/10/61	27/01/65	26/02/65
GREECE	18/10/61	06/06/84	06/07/84
HUNGARY	13/12/91	08/07/99	07/08/99
IRELAND	18/10/61	07/10/64	26/02/65
ITALY	18/10/61	22/10/65	21/11/65
LATVIA	29/05/97	31/01/02	02/03/02
LITHUANIA			
LUXEMBOURG	18/10/61	10/10/91	09/11/91
MALTA	26/05/88	04/10/88	03/11/88
NETHERLANDS	18/10/61	22/04/80	22/05/80
POLAND	26/11/91	25/06/97	25/07/97
PORTUGAL	01/06/82	30/09/91	30/10/91
ROMANIA	04/10/94		
SLOVAKIA	27/05/92 (i)	22/06/98	21/07/98
SLOVENIA	11/10/97		
SPAIN	27/04/78	06/05/80	05/06/80
SWEDEN	18/10/61	17/12/62	26/02/65
TURKEY	18/10/61	24/11/98	24/12/89
UNITED KINGDOM	18/10/61	11/07/62	26/02/65

i: Date of signature by the Czech and Slovak Federal Republic

## ADDITIONAL PROTOCOL TO THE EUROPEAN SOCIAL CHARTER

Situation on: September 2003

MEMBER STATES	Date of Signature	Date of Ratification or Accession	Date of entry into force
AUSTRIA	04/12/90		
BELGIUM	20/05/92	23/06/03	22/07/03
BULGARIA			
CYPRUS	05/05/88		
CZECH REP.	27/05/92 (i)	17/11/99	17/12/99
DENMARK	27/08/96	27/08/96	26/09/96
ESTONIA			
FINLAND	09/02/90	29/04/91	04/09/92
FRANCE	22/06/89		
GERMANY	05/05/88		
GREECE	05/05/88	18/06/98	17/07/98
HUNGARY			
IRELAND			
ITALY	05/05/88	26/05/94	25/06/94
LATVIA	29/05/97		
LITHUANIA			
LUXEMBOURG	05/05/88		
MALTA			
NETHERLANDS	14/06/90	05/08/92	04/09/92
POLAND			
PORTUGAL			
ROMANIA			
SLOVAKIA	27/05/92 (i)	22/06/98	21/07/98
SLOVENIA	11/10/97		
SPAIN	05/05/88	24/01/00	23/02/00
SWEDEN	05/05/88	05/05/89	04/09/92
TURKEY	05/05/88		
UNITED KINGDOM			

i: Date of signature by the Czech and Slovak Federal Republic

## EUROPEAN SOCIAL CHARTER (Revised)

Situation on: June 2003

MEMBER STATES	Date of Signature	Date of Ratification or Accession	Date of entry into force
AUSTRIA	07/05/99		
BELGIUM	03/05/96		
BULGARIA	21/09/98	07/06/00	01/08/00
CYPRUS	03/05/96	27/09/00	01/11/00
CZECH REP.	04/11/00		
DENMARK	03/05/96		
ESTONIA	04/05/98	11/09/00	01/11/00
FINLAND	03/05/96	21/06/02	01/08/02
FRANCE	03/05/96	07/05/99	01/07/99
GERMANY			
GREECE	03/05/96		
HUNGARY			
IRELAND	04/11/00	04/11/00	01/01/01
ITALY	03/05/96	05/07/99	01/09/99
LATVIA			
LITHUANIA	08/09/97	29/06/01	01/08/01
LUXEMBOURG	11/02/98		
MALTA			
NETHERLANDS			
POLAND			
Portugal	03/05/96	30/05/02	01/07/02
ROMANIA	14/05/97	07/05/99	01/07/99
SLOVAKIA	18/11/99		
SLOVENIA	11/10/97	07/05/99	01/07/99
SPAIN	23/10/00		
SWEDEN	03/05/96	29/05/98	01/07/99
TURKEY			
UNITED KINGDOM	07/11/97		



## **Part V**

### **European Union**

- Treaty establishing the European Community (Nice)
- Treaty on European Union (Nice)
- Community Charter of the Fundamental Social Rights of Workers
- Charter of Fundamental Rights of the European Union





# TREATY ESTABLISHING THE EUROPEAN COMMUNITY<sup>1</sup>

(as adopted in Nice in 2000)<sup>2</sup>

## PART ONE: PRINCIPLES

### Article 2

The Community shall have as its task, by establishing a common market and an economic and monetary union and by implementing common policies or activities referred to in Articles 3 and 4, to promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women<sup>3</sup>, sustainable and non-inflationary growth, a high degree of competitiveness<sup>4</sup> and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States.

### Article 3

1. For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein:

(a ) the prohibition, as between Member States, of customs duties and quantitative restrictions on the import and export of goods, and of all other measures having equivalent effect;

(b) a common commercial policy;

(c) an internal market characterised by the abolition, as between Member States, of obstacles to the free movement of goods, persons, services and capital;

(d) measures concerning the entry and movement of persons as provided for in Title IV;

(e) a common policy in the sphere of agriculture and fisheries;

(f) a common policy in the sphere of transport;

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<sup>1</sup> Please note that in the framework of the work of the European Convention on the Future of Europe a new draft Constitutional Treaty, based on the current EC and EU Treaties adopted in Nice, has been elaborated. This text is being analysed and evaluated for final adoption by the Intergovernmental Conference Future of the Union which started on 4 October 2003 under Italian Presidency. Therefore, please also consult:

<http://european-convention.eu.int/bienvenue.asp?lang=EN&Content=>

<http://european-convention.eu.int/DraftTreaty.asp?lang=EN>

<http://ue.eu.int/igc/index.asp?lang=EN>

<sup>2</sup> Revisions in the text are underlined

<sup>3</sup> Amendment made in the framework of equality of men and women. For other changes in this framework see also article 3 TEC

<sup>4</sup> Amendment made in the framework of the employment chapter. For other changes in this framework, see also Article B of TEU, Article 3 and the new title on Employment inserted after Title VI of the TEC.

- (g) a system ensuring that competition in the internal market is not distorted;
- (h) the approximation of the laws of Member States to the extent required for the functioning of the common market;
- (i) the promotion of coordination between employment policies of the Member States with a view to enhancing their effectiveness by developing a coordinated strategy for employment;
- (j) a policy in the social sphere comprising a European Social Fund;
- (k) the strengthening of economic and social cohesion;
- (l) a policy in the sphere of the environment;
- (m) the strengthening of the competitiveness of Community industry;
- (n) the promotion of research and technological development;
- (o) encouragement for the establishment and development of trans-European networks;
- (p) a contribution to the attainment of a high level of health protection;
- (q) a contribution to education and training of quality and to the flowering of the cultures of the Member States;
- (r) a policy in the sphere of development cooperation;
- (s) the association of the overseas countries and territories in order to increase trade and promote jointly economic and social development;
- (t) a contribution to the strengthening of consumer protection;
- (u) measures in the spheres of energy, civil protection and tourism.

2. In all the activities referred to in this Article, the Community shall aim to eliminate inequalities, and to promote equality, between men and women.

### Article 12

Within the scope of application of this Treaty, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.

The Council, acting in accordance with the procedure referred to in Article 251, may adopt rules designed to prohibit such discrimination.

### Article 13

Without prejudice to the other provisions of this Treaty and within the limits of the powers conferred by it upon the Community, the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

## **PART TWO: CITIZENSHIP OF THE UNION**

### Article 17

1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship.
2. Citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby.

### Article 18

1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect.
2. If action by the Community should prove necessary to attain this objective and this Treaty has not provided the necessary powers, the Council may adopt provisions with a view to facilitating the exercise of the rights referred to in paragraph 1. (phrase shall be deleted) The Council shall act in accordance with the procedure referred to in Article 251. (The next sentence shall be deleted)
3. Paragraph 2 shall not apply to provisions on passports, identity cards, residence permits or any other such document or to provisions on social security or social protection.

## **PART THREE: COMMUNITY PRINCIPLES**

### **TITLE III FREE MOVEMENT OF PERSONS, SERVICES AND CAPITAL**

#### **CHAPTER 1 WORKERS**

### Article 39

1. Freedom of movement for workers shall be secured within the Community.
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.
3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
  - (a) to accept offers of employment actually made;
  - (b) to move freely within the territory of Member States for this purpose;
  - (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;

(d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in implementing regulations to be drawn up by the Commission.

4. The provisions of this Article shall not apply to employment in the public service.

#### Article 40

The Council shall, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, issue directives or make regulations setting out the measures required to bring about freedom of movement for workers, as defined in Article 39, in particular:

(a) by ensuring close cooperation between national employment services;

(b) by abolishing those administrative procedures and practices and those qualifying periods in respect of eligibility for available employment, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to liberalisation of the movement of workers;

(c) by abolishing all such qualifying periods and other restrictions provided for either under national legislation or under agreements previously concluded between Member States as imposed on workers of other Member States conditions regarding the free choice of employment other than those imposed on workers of the State concerned;

(d) by setting up appropriate machinery to bring offers of employment into touch with applications for employment and to facilitate the achievement of a balance between supply and demand in the employment market in such a way as to avoid serious threats to the standard of living and level of employment in the various regions and industries.

#### Article 41

Member States shall, within the framework of a joint programme, encourage the exchange of young workers.

#### Article 42

The Council shall, acting in accordance with the procedure referred to in Article 251, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, it shall make arrangements to secure for migrant workers and their dependants:

(a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries;

(b) payment of benefits to persons resident in the territories of Member States.

The Council shall act unanimously throughout the procedure referred to in Article 251.

## CHAPTER 2 RIGHT OF ESTABLISHMENT

### Article 43

Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member state in the territory on another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State.

Freedom of establishment shall include the right to take up and pursue activities as self employed persons and to set up and manage undertakings, in particular companies or firms within the meaning of the second paragraph of Article 48, under the conditions laid down for its own nationals by the law of the country where such establishment is effected, subject to the provisions of the Chapter relating to capital.

### Article 44

1. In order to attain freedom of establishment as regards a particular activity, the Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee, shall act by means of directives.

2. The Council and the Commission shall carry out the duties devolving upon them under the preceding provisions, in particular:

(a) by according, as a general rule, priority treatment to activities where freedom of establishment makes a particularly valuable contribution to the development of production and trade;

(b) by ensuring close cooperation between the competent authorities in the Member States in order to ascertain the particular situation within the Community of the various activities concerned;

(c) by abolishing those administrative procedures and practices, whether resulting from national legislation or from agreements previously concluded between Member States, the maintenance of which would form an obstacle to freedom of establishment;

(d) by ensuring that workers of one Member State employed in the territory of another Member State may remain in that territory for the purpose of taking up activities therein as self employed persons, where they satisfy the conditions which they would be required to satisfy if they were entering that State at the time when they intended to take up such activities;

(e) by enabling a national of one Member State to acquire and use land and buildings situated in the territory of another Member State, insofar as this does not conflict with the principles laid down in Article 33(2);

(f) by effecting the progressive abolition of restrictions on freedom of establishment in every branch of activity under consideration, both as regards the conditions for setting up agencies, branches or subsidiaries in the territory of a Member State and as regards the subsidiaries in the territory of a Member State and as regards the conditions governing the entry of personnel belonging to the main establishment into managerial or supervisory posts in such agencies, branches or subsidiaries;

(g) by coordinating to the necessary extent the safeguards which, for the protection of the interests of members and other, are required by Member States of companies or firms within the meaning of the second paragraph of Article 48 with a view to making such safeguards equivalent throughout the Community;

(h) by satisfying themselves that the conditions of establishment are not distorted by aids granted by Member States.

#### Article 45

The provisions of this Chapter shall not apply, so far as any given Member State is concerned, to activities which in that State are connected, even occasionally, with the exercise of official authority.

The Council may, acting by a qualified majority on a proposal from the Commission, rule that the provisions of this Chapter shall not apply to certain activities.

#### Article 46

1. The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign nationals on grounds of public policy, public security or public health.

2. The Council shall, acting in accordance with the procedure referred to in Article 251, issue directives for the coordination of the abovementioned provisions.

#### Article 47

1. In order to make it easier for persons to take up and pursue activities as self-employed persons, the Council shall, acting in accordance with the procedure referred to in Article 251, issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualifications.

2. For the same purpose, the Council shall, acting in accordance with the procedure referred to in Article 251, issue directives for the coordination of the provisions laid down by law, regulation or administrative action in Member States concerning the taking up and pursuit of activities as self-employed persons. The Council, acting unanimously throughout the procedure referred to in Article 251, shall decide on directives the implementation of which involves in at least one Member State amendment of the existing principles laid down by law governing the professions with respect to training and conditions of access for natural persons.

In other cases the Council shall act by qualified majority.

3. In the case of the medical and allied and pharmaceutical professions, the progressive abolition of restrictions shall be dependent upon coordination of the conditions for their exercise in the various Member States.

#### Article 48

Companies or firms formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Community shall, for the purposes of this Chapter, be treated in the same way as natural persons who are nationals of Member States.

"Companies or firms" means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.

### **TITLE VIII EMPLOYMENT**

#### Article 125

Member States and the Community shall, in accordance with this Title, work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce and labour markets responsive to economic change with a view to achieving the objectives defined in Article 2 of the Treaty on European Union and in Article 2 of this Treaty.

#### Article 126

1. Member States, through their employment policies, shall contribute to the achievement of the objectives referred to in Article 125 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Community adopted pursuant to Article 99(2).

2. Member States, having regard to national practices related to the responsibilities of management and labour, shall regard promoting employment as a matter of common concern and shall coordinate their action in this respect within the Council, in accordance with the provisions of Article 128.

#### Article 127

1. The Community shall contribute to a high level of employment by encouraging cooperation between Member States and by supporting and, if necessary, complementing their action. In doing so, the competencies of the Member States shall be respected.

2. The objective of a high level of employment shall be taken into consideration in the formulation and implementation of Community policies and activities.

### Article 128

1. The European Council shall each year consider the employment situation in the Community and adopt conclusions thereon, on the basis of a joint annual report by the Council and the Commission.
2. On the basis of the conclusions of the European Council, the Council, acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament, the Economic and Social Committee, the Committee of the Regions and the Employment Committee referred to in Article 130, shall each year draw up guidelines which the Member States shall take into account in their employment policies. These guidelines shall be consistent with the broad guidelines adopted pursuant to Article 99(2).
3. Each Member State shall provide the Council and the Commission with an annual report on the principal measures taken to implement its employment policy in the light of the guidelines for employment as referred to in paragraph 2.
4. The Council, on the basis of the reports referred to in paragraph 3 and having received the views of the Employment Committee, shall each year carry out an examination of the implementation of the employment policies of the Member States in the light of the guidelines for employment. The Council, acting by a qualified majority on a recommendation from the Commission, may, if it considers it appropriate in the light of that examination, make recommendations to Member States.
5. On the basis of the results of that examination, the Council and the Commission shall make a joint annual report to the European Council on the employment situation in the Community and on the implementation of the guidelines for employment.

### Article 129

The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, may adopt incentive measures designed to encourage cooperation between Member States and to support their action in the field of employment through initiatives aimed at developing exchanges of information and best practices, providing comparative analysis and advice as well as promoting innovative approaches and evaluating experiences, in particular by recourse to pilot projects.

Those measures shall not include harmonisation of the laws and regulations of the Member States.

### Article 130

The Council, after consulting the European Parliament, shall establish an Employment Committee with advisory status to promote coordination between Member States on employment and labour market policies. The tasks of the Committee shall be:

- to monitor the employment situation and employment policies in the Member States and the Community;



- without prejudice to Article 207, to formulate opinions at the request of either the Council or the Commission or on its own initiative, and to contribute to the preparation of the Council proceedings referred to in Article 128.

In fulfilling its mandate, the Committee shall consult management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

## **TITLE XI**

### **SOCIAL POLICY, EDUCATION, VOCATIONAL TRAINING AND YOUTH CHAPTER 1 SOCIAL PROVISIONS**

Article 136 (see in particular Article 1 Social Agreement).

The Community and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Community and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Community economy.

They believe that such a development will ensue not only from the functioning of the common market, which will favour the harmonisation of social systems, but also from the procedures provided for in this Treaty and from the approximation of provisions laid down by law, regulation or administrative action.

#### Article 137<sup>5</sup>

1. With a view to achieving the objectives of Article 136, the Community shall support and complement the activities of the Member States in the following fields:

- a) improvement in particular of the working environment to protect workers' health and safety;
- b) working conditions;
- e) the information and consultation of workers;

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<sup>5</sup> In a Declaration to the Final Act on this Article, in particular to paragraph 2, is stated: "The High Contracting Parties note that in the discussions on Article 118(2) it was agreed that the Community does not intend, in laying down minimum requirements for the protection of the safety and health of employees, to discriminate in a manner unjustified by the circumstances against employees in small and medium-sized undertakings."

- h) the integration of persons excluded from the labour market, without prejudice to Article 150;
- i) equality between men and women with regard to labour market opportunities and treatment at work.
- j) the combating of social exclusion;
- k) the modernisation of social protection systems without prejudice to point (c).

To this end, the Council:

a) may adopt measures designed to encourage co-operation between Member States through initiatives aimed at improving knowledge, developing exchanges of information and best practices, promoting innovative approaches and evaluating experiences, excluding any harmonisation of the laws and regulations of the Member States;

b) may adopt, in the fields referred to in paragraph 1(a) to (i), by means of directives, minimum requirements for gradual implementation, having regard to the conditions and technical rules obtaining in each of the Member States. Such directives shall avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings.

The Council shall act in accordance with the procedure referred to in Article 251 after consulting the Economic and Social Committee and the Committee of the Regions, except in the fields referred to in paragraph 1(c), (d), (f) and (g) of this Article, where the Council shall act unanimously on a proposal from the Commission, after consulting the European Parliament and the said Committees. The Council, acting unanimously on a proposal from the Commission, after consulting the European Parliament, may decide to render the procedure referred to in Article 251 applicable to paragraph 1(d), (f) and (g) of this Article.

3.) A Member State may entrust management and labour, at their joint request, with the implementation of directives adopted pursuant to paragraph 2.

In this case, it shall ensure that, no later than the date on which a directive must be transposed in accordance with Article 249, management and labour have introduced the necessary enabling it any time to be in a position to guarantee the results imposed by that directive.

4.) The provisions adopted pursuant to this Article:

- shall not affect the right of Member States to define the fundamental principles of their social security systems and must not significantly affect the financial equilibrium thereof;
- shall not prevent any Member State from maintaining or introducing more stringent protective measures compatible with this Treaty.

5.) The provisions of this Article shall not apply to pay, the right of association, the right to strike or the right to impose lock-outs.

Article 138 (see Article 3 Social Agreement)

1. The Commission shall have the task of promoting the consultation of management and labour at Community level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.
2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Community action.
3. If, after such consultation, the Commission considers Community action advisable, it shall consult management and labour on the content of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.
4. On the occasion of such consultation, management and labour may inform the Commission of their wish to initiate the process provided for in Article 139. The duration of the procedure shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.

Article 139 ( see Article 4 Social Agreement)<sup>6</sup>

1. Should management and labour so desire, the dialogue between them at Community level may lead to contractual relations, including agreements.
2. Agreements concluded at Community level shall be implemented either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 137, at the joint request of the signatory parties, by a Council decision on a proposal from the Commission.

The Council shall act by qualified majority, except where the agreement in question contains one or more provisions relating to one of the areas for which unanimity is required pursuant to in Article 137(2), in which case it shall act unanimously.

Article 140 (see Article 5 Social Agreement)

With a view to achieving the objectives of Article 136 and without prejudice to the other provisions of this Treaty, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this chapter, particularly in matters relating to:

- employment;
- labour law and working conditions;
- basic and advanced vocational training;

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<sup>6</sup> In a Declaration to the Final Act on this Article, in particular on the paragraph 2, is stated: “The High Contracting Parties declare that the first of the arrangements for application of the agreements between management and labour at Community level - referred to in Article 118b(2) - will consist in developing, by collective bargaining according to the rules of each Member State, the content of the agreements, and that consequently this arrangement implies no obligation on the Member States to apply the agreements directly or to work out rules for their transposition, nor any obligation to amend national legislation in force to facilitate their implementation.

- social security;
- prevention of occupational accidents and diseases;
- occupational hygiene;
- the right of association and collective bargaining between employers and workers.

To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations.

Before delivering the opinions provided for in this Article, the Commission shall consult the Economic and Social Committee.

#### Article 141 (see Article 6 Social Agreement)

1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.
2. For the purpose of this Article, "pay" means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.

Equal pay without discrimination based on sex means:

(a) that pay for the same work at piece rates shall be calculated on the basis of the same unit of measurement;

(b) that pay for work at time rates shall be the same for the same job.

3. The Council, acting in accordance with the procedure referred to in Article 251, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.

4. With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the under-represented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.

#### Article 144

The Council after consulting the European Parliament, shall establish a Social Protection Committee with advisory status to promote co-operation on social protection policies between Member States and with the Commission. The tasks of the Committee shall be:

- to monitor the social situation and the development of social protection policies in the Member States and the Community;

- to promote exchanges of information, experience and good practice between Member States and with the Commission;
- without prejudice to Article 207, to prepare reports, formulate opinions or undertake other work within its fields of competence, at the request of either the Council or the Commission or on its own initiative.

In fulfilling its mandate, the Committee shall establish appropriate contacts with management and labour.

Each Member State and the Commission shall appoint two members of the Committee.

#### Article 145

The Commission shall include a separate chapter on social developments within the Community in its annual report to the European Parliament.

The European Parliament may invite the Commission to draw up reports on any particular problems concerning social conditions.

## **CHAPTER 2 THE EUROPEAN SOCIAL FUND**

#### Article 146

In order to improve employment opportunities for workers in the internal market and to contribute thereby to raising the standard of living, a European Social Fund is hereby established in accordance with the provisions set out below; it shall aim to render the employment of workers easier and to increase their geographical and occupational mobility within the Community, and to facilitate their adaptation to industrial changes and to changes in production systems, in particular through vocational training and retraining.

#### Article 147

The Fund shall be administered by the Commission.

The Commission shall be assisted in this task by a Committee presided over by a Member of the Commission and composed of representatives of governments, trade unions and employers' organisations.

#### Article 148

The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt implementing decisions relating to the European Social Fund.

## CHAPTER 3 EDUCATION, VOCATIONAL TRAINING AND YOUTH

### Article 149

1. The Community shall contribute to the development of quality education by encouraging cooperation between Member States and, if necessary, by supporting and supplementing their action, while fully respecting the responsibility of the Member States for the content of teaching and the organisation of education systems and their cultural and linguistic diversity.

2. Community action shall be aimed at:

- developing the European dimension in education, particularly through the teaching and dissemination of the languages of the Member States;
- encouraging mobility of students and teachers, inter alia by encouraging the academic recognition of diplomas and periods of study;
- promoting cooperation between educational establishments;
- developing exchanges of information and experience on issues common to the education systems of the Member States;
- encouraging the development of youth exchanges and of exchanges of socio-educational instructors;
- encouraging the development of distance education.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the field of education, in particular the Council of Europe.

4. In order to contribute to the achievement of the objectives referred to in this Article, the Council:

- acting in accordance with the procedure referred to in Article 251, after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt incentive measures, excluding any harmonisation of the laws and regulations of the Member States;
- acting by a qualified majority on a proposal from the Commission, shall adopt recommendations.

### Article 150

1. The Community shall implement a vocational training policy, which shall support and supplement the action of the Member States, while fully respecting the responsibility of the Member States for the content and organisation of vocational training.

2. Community action shall aim to:

- facilitate adaptation to industrial changes, in particular through vocational training and retraining;
- improve initial and continuing vocational training in order to facilitate vocational integration and reintegration into the labour market;
- facilitate access to vocational training and encourage mobility of instructors and trainees and particularly young people;
- stimulate cooperation on training between educational or training establishments and firms;
- develop exchanges of information and experience on issues common to the training systems of the Member States.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of vocational training.

4. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall adopt measures to contribute to the achievement of the objectives referred to in this Article, excluding any harmonisation of the laws and regulations of the Member States.

## **TITLE XIII**

### **PUBLIC HEALTH**

#### Article 152

1. A high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities.

Community action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating sources of danger to human health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education.

The Community shall complement the Member States' action in reducing drugs, related health damage, including information and prevention.

2. The Community shall encourage cooperation between Member States in the areas referred to in this Article and, if necessary, lend support to their action.

Member States shall, in liaison with the Commission, coordinate among themselves their policies and programmes in the areas referred to in paragraph 1. The Commission may, in close contact with the Member States, take any useful initiative to promote such coordination.

3. The Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of public health.

4. The Council, acting in accordance with the procedure referred to in Article 251 and after consulting the Economic and Social Committee and the Committee of the Regions, shall contribute to the achievement of the objectives referred to in this Article through adopting:

a) measures setting high standards of quality and safety of organs and substances of human origin, blood and blood derivatives, these measures shall not prevent any Member State from maintaining or introducing more stringent protective measures;

b) by way of derogation from Article 37, measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health;

c) incentive measures designed to protect and improve human health, excluding any harmonisation of the laws and regulations of the Member States.

The Council, acting by a qualified majority on a proposal from the Commission, may also adopt recommendations for the purposes set out in this Article.

5. Community action in the field of public health shall fully respect the responsibilities of the Member States for the organisation and delivery of health services and medical care. In particular, measures referred to in paragraph 4(a) shall not affect national provisions on the donation or medical use of organs and blood.



## **TREATY ON EUROPEAN UNION<sup>7</sup>**

**(as adopted in Nice in 2000)<sup>8</sup>**

### **Preamble**

Fourth paragraph is stating:

CONFIRMING their attachment to fundamental social rights as defined in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers.

### **Title 1 Common Provisions**

#### Article 2

The Union shall set itself the following objectives:

- to promote economic and social progress and a high level of employment and to achieve balanced and sustainable development, in particular through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union, ultimately including a single currency in accordance with the provisions of this Treaty;
- to assert its identity on the international scene, in particular through the implementation of a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence, in accordance with the provisions of Article 17;
- to strengthen the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union;
- to maintain and develop the Union as an area of freedom, security and justice, in which the free movement of persons is assured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the prevention and combating of crime;
- to maintain in full the *acquis communautaire* and build on it with a view to considering to what extent the policies and forms of cooperation introduced by this Treaty may need to be revised with the aim of ensuring the effectiveness of the mechanisms and the institutions of the Community.

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<sup>7</sup> Please note that in the framework of the work of the European Convention on the Future of Europe a new draft Constitutional Treaty, based on the current EC and EU Treaties adopted in Nice, has been elaborated. This text is being analysed and evaluated for final adoption by the Intergovernmental Conference Future of the Union which started on 4 October 2003 under Italian Presidency. Therefore, please also consult:

<http://european-convention.eu.int/bienvenue.asp?lang=EN&Content=>

<http://european-convention.eu.int/DraftTreaty.asp?lang=EN>

<http://ue.eu.int/igc/index.asp?lang=EN>

<sup>8</sup> Revisions to the text are underlined

The objectives of the Union shall be achieved as provided in this Treaty and in accordance with the conditions and the timetable set out therein while respecting the principle of subsidiarity as defined in Article 5 of the Treaty establishing the European Community.

#### Article 6

1. The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles, which are common to the Member States.
2. The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law.
3. The Union shall respect the national identities of its Member States.
4. The Union shall provide itself with the means necessary to attain its objectives and carry through its policies.

#### Article 7<sup>9</sup>

1. On a reasoned proposal by one third of the Member States, by the European Parliament or by the Commission, the Council, acting by a majority of four-fifths of its members after obtaining the assent of the European Parliament, may determine that there is a clear risk of a serious breach by a Member State of principles mentioned in Article 6(1), and address appropriate recommendations to that State. Before making such a determination, the council shall hear the Member State in question and, acting in accordance with the same procedure, may call on independent persons to submit within a reasonable time limit a report on the situation in the Member State in question.

The Council shall regularly verify that the grounds on which such a determination was made continue to apply.

2. The Council, meeting in the composition of the Heads of State or Government and acting by unanimity on a proposal by one third of the Member States or by the Commission and after obtaining the assent of the European Parliament, may determine the existence of a serious and persistent breach by a Member State of principles mentioned in Article 6(1), after inviting the government of the Member State in question to submit its observations.

3. Where a determination under paragraph 2 has been made, the Council, acting by a qualified majority, may decide to suspend certain of the rights deriving from the application of this Treaty to the Member State in question, including the voting rights of the representative of the government of that Member State in the Council. In doing so, the Council shall take into account the possible consequences of such a suspension on the rights and obligations of natural and legal persons.

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<sup>9</sup> This article is added to allow action to be taken in the event of a breach by a Member State of the principles on which the Union is founded. This article should be read in combination with the new Article 309 which is inserted in the Treaty on the European Community. (see part on Treaty on the European Community)

The obligations of the Member State in question under this Treaty shall in any case continue to be binding on that State.

4. The Council, acting by a qualified majority, may decide subsequently to vary or revoke measures taken under paragraph 3 in response to changes in the situation which led to their being imposed.

5. For the purposes of this Article, the Council shall act without taking into account the vote of the representative of the government of the Member State in question. Abstentions by members present in person or represented shall not prevent the adoption of decisions referred to in paragraph 1. A qualified majority shall be defined as the same proportion of the weighted votes of the members of the Council concerned as laid down in Article 205(2) of the Treaty establishing the European Community.

This paragraph shall also apply in the event of voting rights being suspended pursuant to paragraph 3.

6. For the purposes of paragraphs 1 and 2, the European Parliament shall act by a two-thirds majority of the votes cast, representing a majority of its members.

## **Title VIII Final Provisions**

### Article 46

The provisions of the Treaty establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community concerning the powers of the Court of Justice of the European Communities and the exercise of those powers shall apply only to the following provisions of this Treaty:

(a) provisions amending the Treaty establishing the European Economic Community with a view to establishing the European Community, the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Atomic Energy Community;

(b) provisions of Title VI, under the conditions provided for by Article 35;

(c) provisions of Title VII, under the conditions provided for by Article 11 and 11a of the Treaty establishing the European Community and Article 40 of this Treaty;

(d) Article 6(2) with regard to action of the institutions, insofar as the Court has jurisdiction under the Treaties establishing the European Communities and under this Treaty;<sup>10</sup>

(e) the purely procedural stipulations in Article 7, with the Court acting at the request of the Member State concerned within one month from the date of the determination by the Council provided for in that Article;

(f) Articles 46 to 53.

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<sup>10</sup> see above

### Article 49

Any European State, which respects the principles set out in Article 6(1),<sup>11</sup> may apply to become a member of the Union. It shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the assent of the European Parliament, which shall act by an absolute majority of its component members.

The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.

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<sup>11</sup> see above

## **COMMUNITY CHARTER OF THE FUNDAMENTAL SOCIAL RIGHTS OF WORKERS**

THE HEADS OF STATE OR GOVERNMENT OF THE MEMBER STATES OF THE EUROPEAN COMMUNITY MEETING AT STRASBOURG ON 9 DECEMBER 1989

Whereas, under the terms of Article 117 of the EEC Treaty, the Member States have agreed on the need to promote improved living and working conditions for workers so as to make possible their harmonization while the improvement is being maintained;

Whereas following on from the conclusions of the European Councils of Hanover and Rhodes the European Council of Madrid considered that, in the context of the establishment of the single European market, the same importance must be attached to the social aspects as to the economic aspects and whereas, therefore, they must be developed in a balanced manner;

Having regard to the Resolutions of the European Parliament of 5 March 1989, 14 September 1989 and 22 November 1989, and to the Opinion of the Economic and Social Committee of 22 February 1989;

Whereas the completion of the internal market is the most effective means of creating employment and ensuring maximum well-being in the Community; whereas employment development and creation must be given first priority in the completion of the internal market; whereas it is for the Community to take up the challenges of the future with regard to economic competitiveness, taking into account, in particular, regional imbalances;

Whereas the social consensus contributes to the strengthening of the competitiveness of undertakings, of the economy as a whole and to the creation of employment; whereas in this respect it is an essential condition for ensuring sustained economic development;

Whereas the completion of the internal market must favour the approximation of improvements in living and working conditions, as well as economic and social cohesion within the European community while avoiding distortions of competition;

Whereas the completion of the internal market must offer improvements in the social field for workers of the European Community, specially in terms of freedom of movement, living and working conditions, health and safety at work, social protection, education and training;

Whereas, in order to ensure equal treatment, it is important to combat every form of discrimination, including discrimination on grounds of sex, colour, race, opinions and beliefs, and whereas, in a spirit of solidarity, it is important to combat social exclusion;

Whereas it is for Member States to guarantee that workers from non-member countries and members of their families who are legally resident in a Member State of the European Community are able to enjoy, as regards their living and working conditions, treatment comparable to that enjoyed by workers who are nationals of the Member State concerned;

Whereas inspiration should be drawn from the Conventions of the International Labour Organization and from the European Social Charter of the Council of Europe;

Whereas the Treaty, as amended by the Single European Act, contains provisions laying down the powers of the Community relating *inter alia* to the freedom of movement of workers (Articles 7, 48 to 51), the right of establishment (Articles 52 to 58), the social field under the conditions laid down in Articles 117 to 122 - in particular as regards the improvement of health and safety in the working environment (Article 118a), the development of the dialogue between management and labour at European level (Article 118b), equal pay for men and women for equal work (Article 119) - the general principles for implementing a common vocational training policy (Article 128), economic and social cohesion (Article 130a to 130e) and, more generally, the approximation of legislation (Articles 100, 100a and 235); whereas the implementation of the Charter must not entail an extension of the Community's powers as defined by the Treaties;

Whereas the aim of the present Charter is on the one hand to consolidate the progress made in the social field, through action by the Member States, the two sides of industry and the Community;

Whereas its aim is on the other hand to declare solemnly that the implementation of the Single European Act must take full account of the social dimension of the Community and that it is necessary in this context to ensure at appropriate levels the development of the social rights of workers of the European Community, especially employed workers and self-employed persons;

Whereas, in accordance with the conclusions of the Madrid European Council, the respective roles of Community rules, national legislation and collective agreements must be clearly established;

Whereas, by virtue of the principle of subsidiarity, responsibility for the initiatives to be taken with regard to the implementation of these social rights lies with the Member States or their constituent parts and, within the limits of its powers, with the European Community; whereas such implementation may take the form of laws, collective agreements or existing practices at the various appropriate levels and whereas it requires in many spheres the active involvement of the two sides of industry;

Whereas the solemn proclamation of fundamental social rights at European Community level may not, when implemented, provide grounds for any retrogression compared with the situation currently existing in each Member State,

HAVE ADOPTED THE FOLLOWING DECLARATION CONSTITUTING THE 'COMMUNITY CHARTER OF THE FUNDAMENTAL SOCIAL RIGHTS OF WORKERS':

## **Title I**

### **Fundamental social rights of workers Freedom of movement**

1. Every worker of the European Community shall have the right to freedom of movement throughout the territory of the Community, subject to restrictions justified on grounds of public order, public safety or public health.

2. The right to freedom of movement shall enable any worker to engage in any occupation or profession in the Community in accordance with the principles of equal treatment as regards access to employment, working conditions and social protection in the host country.

The right of freedom of movement shall also imply:

- (i) harmonization of conditions of residence in all Member States, particularly those concerning family reunification;
- (ii) elimination of obstacles arising from the non-recognition of diplomas or equivalent occupational qualifications;
- (iii) improvement of the living and working conditions of frontier workers.

### **Employment and remuneration**

4. Every individual shall be free to choose and engage in an occupation according to the regulations governing each occupation.

5. All employment shall be fairly remunerated.

To this end, in accordance with arrangements applying in each country:

- (i) workers shall be assured of an equitable wage, i.e. a wage sufficient to enable them to have a decent standard of living;
  - (ii) workers subject to terms of employment other than an open-ended full-time contract shall benefit from an equitable reference wage;
  - (iii) wages may be withheld, seized or transferred only in accordance with national law; such provisions should entail measures enabling the worker concerned to continue to enjoy the necessary means of subsistence for him or herself and his or her family.
6. Every individual must be able to have access to public placement services free of charge.

### **Improvement of living and working conditions**

7. The completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community. This process must result from an approximation of these conditions while the improvement is being maintained, as regards in particular the duration and organization of working time and forms of employment other than open-ended contracts, such as fixed-term contracts, part-time working, temporary work and seasonal work.

The improvement must cover, where necessary, the development of certain aspects of employment regulations such as procedures for collective redundancies and those regarding bankruptcies.

8. Every worker of the European Community shall have a right to a weekly rest period and to annual paid leave, the duration of which must be progressively harmonized in accordance with national practices.

9. The conditions of employment of every worker of the European Community shall be stipulated in laws, a collective agreement or a contract of employment, according to arrangements applying in each country.

### **Social protection**

According to the arrangements applying in each country:

10. Every worker of the European Community shall have a right to adequate social protection and shall, whatever his status and whatever the size of the undertaking in which he is employed, enjoy an adequate level of social security benefits.

Persons who have been unable either to enter or re-enter the labour market and have no means of subsistence must be able to receive sufficient resources and social assistance in keeping with their particular situation.

### **Freedom of association and collective bargaining**

11. Employers and workers of the European Community shall have the right of association in order to constitute professional organizations or trade unions of their choice for the defence of their economic and social interests.

Every employer and every worker shall have the freedom to join or not to join such organizations without any personal or occupational damage being thereby suffered by him.

12. Employers or employers' organizations, on the one hand, and workers' organizations, on the other, shall have the right to negotiate and conclude collective agreements under the conditions laid down by national legislation and practice.

The dialogue between the two sides of industry at European level, which must be developed, may, if the parties deem it desirable, result in contractual relations in particular at inter-occupational and sectoral level.

13. The right to resort to collective action in the event of a conflict of interests shall include the right to strike, subject to the obligations arising under national regulations and collective agreements.

In order to facilitate the settlement of industrial disputes the establishment and utilization at the appropriate levels of conciliation, mediation and arbitration procedures should be encouraged in accordance with national practice.

14. The internal legal order of the Member States shall determine under which conditions and to what extent the rights provided for in Articles 11 to 13 apply to the armed forces, the police and the civil service.



## **Vocational training**

15. Every worker of the European Community must be able to have access to vocational training and to benefit therefrom throughout his working life. In the conditions governing access to such training there may be no discrimination on grounds of nationality.

The competent public authorities, undertakings or the two sides of industry, each within their own sphere of competence, should set up continuing and permanent training systems enabling every person to undergo retraining more especially through leave for training purposes, to improve his skills or to acquire new skills, particularly in the light of technical developments.

## **Equal treatment for men and women**

16. Equal treatment for men and women must be assured. Equal opportunities for men and women must be developed.

To this end, action should be intensified to ensure the implementation of the principle of equality between men and women as regards in particular access to employment, remuneration, working conditions, social protection, education, vocational training and career development.

Measures should also be developed enabling men and women to reconcile their occupational and family obligations.

## **Information, consultation and participation for workers**

17. Information, consultation and participation for workers must be developed along appropriate lines, taking account of the practices in force in the various Member States.

This shall apply especially in companies or groups of companies having establishments or companies in two or more Member States of the European Community.

18. Such information, consultation and participation must be implemented in due time, particularly in the following cases:

(i) when technological changes, which, from the point of view of working conditions and work organization, have major implications for the work-force, are introduced into undertakings;

(ii) in connection with restructuring operations in undertakings or in cases of mergers having an impact on the employment of workers;

(iii) in cases of collective redundancy procedures;

(iv) when transfrontier workers in particular are affected by employment policies pursued by the undertaking where they are employed.

## **Health protection and safety at the workplace**

19. Every worker must enjoy satisfactory health and safety conditions in his working environment. Appropriate measures must be taken in order to achieve further harmonization of conditions in this area while maintaining the improvements made.

These measures shall take account in particular of the need for the training information, consultation and balanced participation of workers as regards the risks incurred and the steps taken to eliminate or reduce them.

The provisions regarding implementation of the internal market shall help to ensure such protections.

### **Protection of children and adolescents**

20. Without prejudice to such rules as may be more favourable to young people in particular those ensuring their preparation for work through vocational training and subject to derogations limited to certain light work, the minimum employment age must not be lower than the minimum school-leaving age and in any case not lower than 15 years.

21. Young people who are in gainful employment must receive equitable remuneration in accordance with national practice.

22. Appropriate measures must be taken to adjust labour regulations applicable to young workers so that their specific development and vocational training; and access to employment needs are met.

The duration of work must, in particular, be limited - without it being possible to circumvent this limitation through recourse to overtime - and night work prohibited in the case of workers of under 18 years of age, save in the case of certain jobs laid down in national legislation or regulations.

23. Following the end of compulsory education young people must be entitled to receive initial vocational training of a sufficient duration to enable them to adapt to the requirements of their future working life; for young workers such training should take place during working hours.

### **Elderly persons**

According to the arrangements applying in each country:

24. Every worker of the European Community must, at the time of retirement, be able to enjoy resources affording him or her a decent standard of living.

25. Any person who has reached retirement age but who is not entitled to a pension or who does not have other means of subsistence must be entitled to sufficient resources and to medical and social assistance specifically suited to his needs

### **Disabled persons**

26. All disabled persons, whatever the origin and nature of their disablement, must be entitled to additional concrete measures aimed at improving their social and professional integration.

These measures must concern, in particular according to the capacities of the beneficiaries, vocational training, ergonomics, accessibility, mobility, means of transport and housing.

## **Title II**

### **Implementation of the Charter**

27. It is more particularly the responsibility of the Member States, in accordance with national practices, notably through legislative measures or collective agreements, to guarantee the fundamental social rights in this Charter and to implement the social measures indispensable to the smooth operation of the internal market as part of a strategy of economic and social cohesion.

28. The European Council invites the Commission to submit as soon as possible initiatives which fall within its powers, as provided for in the Treaties, with a view to the adoption of legal instruments for the effective implementation, as and when the internal market is completed, of those rights which come within the Community's area of competence.

29. The Commission shall establish each year, during the last three months, a report on the application of the Charter by the Member States and by the European Community.

30. The report of the Commission shall be forwarded to the European Council, the European Parliament and the Economic and Social Committee.

## **CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION** **(2000/C 364/01)<sup>12</sup>**

**as adopted in Nice in December 2000**

### Article 8

Protection of personal data

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

### Article 12

Freedom of assembly and of association

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

### Article 14

Right to education

1. Everyone has the right to education and to have access to vocational and continuing training.

### Article 15

Freedom to choose an occupation and right to engage in work

1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation.
2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State.

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<sup>12</sup> Please note, that in the framework of the work of the European Convention on the future of Europe the Charter may be subject to amendments. Therefore, please consult:

<http://european-convention.eu.int/bienvenue.asp?lang=EN>

<http://european-convention.eu.int/docs/Treaty/cv00820.en03.pdf> (Draft Treaty establishing a Constitution for Europe)

3. Nationals of third countries who are authorized to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.

#### Article 16

Freedom to conduct a business

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

### **CHAPTER III EQUALITY**

#### Article 20

Equality before the law

Everyone is equal before the law.

#### Article 21

Non-discrimination

1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited.

#### Article 23

Equality between men and women

Equality between men and women must be ensured in all areas, including employment, work and pay.

The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favor of the under-represented sex.

#### Article 24

The rights of the child

1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.

2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.

3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

#### Article 25

##### The rights of the elderly

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

#### Article 26

##### Integration of persons with disabilities

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

### **CHAPTER IV SOLIDARITY**

#### Article 27

##### Workers' right to information and consultation within the undertaking

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

#### Article 28

##### Right of collective bargaining and action

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

#### Article 29

##### Right of access to placement services

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

### Article 30

#### Protection in the event of unjustified dismissal

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

### Article 31

#### Fair and just working conditions

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

### Article 32

#### Prohibition of child labour and protection of young people at work

The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations.

Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education.

### Article 33

#### Family and professional life

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

### Article 34

#### Social security and social assistance

1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Community law and national laws and practices.
2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Community law and national laws and practices.

3. In order to combat social exclusion and poverty, the Union recognizes and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.

#### Article 35

##### Health care

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



## **Part VI**

### **Constitutions of the EU member states**

- Austria
- Belgium
- Denmark
- Finland
- France
- Germany
- Greece
- Ireland
- Italy
- Luxembourg
- Netherlands
- Portugal
- Spain
- Sweden



## **CONSTITUTIONAL PROVISIONS OF AUSTRIA**

1934, BGBl. II Nr. 1/1934

### **1. Constitution of 1983**

#### Article 7 (Equality, political rights)

(1) All federal nationals are equal before the law. Privileges based upon birth, sex, estate, class, or religion are excluded.

(2) Public employees, including members of the Federal army, are guaranteed the unrestricted exercise of their political rights.

### **2. Basic law on the general rights of nationals of 21 December 1867**

#### Article 2

All nationals shall be equal before the law

#### Article 6

Every national shall be entitled to reside or settle at any point on the State territory, to acquire and make free use of land and property of whatever kind and to practice any lawful form of business.

#### Article 12

Austrian nationals shall have the right to assemble and to form associations. The exercise of these rights shall be regulated by specific laws.

#### Article 17

(1) Knowledge and its teaching are free.

(2) Every national who has furnished in legally acceptable manner proof of his qualification has the right to found establishments for instruction and education.

(3) Instruction at home is subject to no such restriction.

(4) The Church or religious society concerned shall see to religious instruction in schools.

(5) The right to supreme direction and supervision over the whole instructional and educational system lies with the state.

#### Article 18

Everyone has the right to choose his vocation and to train for it how and where he wishes.

### Article 19

All minorities (•) resident within the State shall have equal rights and members of such minorities shall have an inviolable right to the guarantee and protection of their nationality and language

(•) In the original German text the definition "Volksstämme" is used; here the definition "minorities" was used because there are no more "Volksstämme" in Austria only minorities. Therefore this article is not anymore used as a legal source.

## **3. Treaty of Saint-Germain (adopted 10/9/1919)**

### Article 63

(1) Austria undertakes to assure full and complete protection of life and liberty to all inhabitants of Austria without distinction of birth, nationality, language, race or religion

### Article 66

(1) All Austrian nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion

(2) Differences of religion, creed, or confession shall not prejudice any Austrian national in matters relating to the enjoyment of civil or political rights, as for instance admission to public employments, functions, and honors, or the exercise of profession and industries.

(3) ...

(4) ...

### Article 67

Austrian nationals who belong to racial, religious, or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Austrian nationals. In particular they shall have an equal right to establish, manage, and control at their own expense charitable, religious, and social institutions, schools, and other educational establishments, with the right to use their own language and to exercise their religion freely therein

## **4. Resolution of the Provisional National Assembly (Adopted 30/10 /1918)**

### Section 3 ( Assembly, Association)

The emergency ordinances with respect to rights of assembly and association are abolished. Complete freedom of assembly and association, without distinction of sex, is established.

## THE COORDINATED CONSTITUTION OF BELGIUM

February 17, 1994

### Article 10

There is no distinction between orders in the State.

All Belgians are equal before the law; they alone are acceptable for civil and military posts, with some exceptions, which may be established by law in particular cases.

### Article 11

Enjoyment of the rights and liberties to which Belgians are entitled must be safeguarded without discrimination. To this end, laws and decrees shall guarantee especially the rights and liberties of ideological and philosophical minorities.

### Article 23

Everyone has the right to lead a life worthy of human dignity.

For this purpose, the law, the decree or the rule specified in Article 134 guarantees the conditions of their exercise, taking into account the corresponding obligations of economic, social and cultural rights.

These rights include particularly:

1. The right to work and the free choice of professional activity within the framework of a general employment policy, which among others, is designed to assure a level of employment, which is as stable and high as possible, the right to just working conditions and equitable remuneration, as well as the right to information, consultation and collective bargaining.
2. The right to social security, to the protection of health and to social, medical and legal assistance;
3. The right to decent housing;
4. The right to the protection of a sound environment;
5. The right to cultural and social development (*épanouissement*).

### Article 24

(1.1) Education is free; any preventative measure is forbidden; the repression of offenses is only governed law or decree.

(1.2) The Community offers free choice to parents.

(1.3) The Community organizes neutral education. Neutrality implies notably the respect of the philosophical, ideological, or religious conceptions of parents and pupils.

(1.4) The schools organized by the public authorities offer, until the end of mandatory schooling, the choice between the teaching of one of the recognized religions and non-denominational moral teaching.

(2) If a Community, in its capacity as an organizing authority, wishes to delegate competency to one or several autonomous bodies, it can only do so by decree adopted by a two-third majority vote.

(3.1) Everyone has the right to education with the respect of fundamental rights and freedoms. Access to education is free until the end of mandatory schooling.

(3.2) All pupils of school age have the right to moral or religious education at the Community's expense.

(4) All pupils or students, parents, teaching staff, or institutions are equal before the law or decree. The law and decree take into account objective differences, notably the characteristics of each organizing authority, that justify appropriate treatment.

(5) The organization, the recognition and the subsidizing of education by the Community are regulated by law or decree.

### Article 27

Belgians have the right to associate, this right may not be subjected to any preventive measure.

### Article 131

The law determines measures designed to prevent all forms of discrimination for ideological or philosophical reasons.

### Article 191

Any foreigner present on Belgian territory shall enjoy the protection granted to persons and goods, subject to exceptions laid down by law.

## **THE CONSTITUTION OF THE KINGDOM OF DENMARK ACT**

5th June, 1953

### Article 70

No person shall for reasons of his creed or descent be deprived of access to complete enjoyment of his civic and political rights, nor shall he for such reasons evade compliance with any common civic duty.

### Article 71

(1) Personal liberty shall be inviolable. No Danish subject shall in any manner whatever be deprived of his liberty because of his political or religious convictions or because of his descent.

(2) A person shall be deprived of his liberty only where this is warranted by law.

(3) Any person who is taken into custody shall be brought before a judge within twenty-four hours. Where the person taken into custody cannot be released immediately, the judge shall decide, stating the grounds in an order to be given as soon as possible and at the latest within three days, whether the person taken into custody shall be committed to prison, and in cases where he can be released on bail, the judge shall determine the nature and amount of such bail. This provision may be departed from by Statute as far as Greenland is concerned, if for local considerations such departure may be deemed necessary.

(4) The finding given by the judge may at once be separately appealed against by the person concerned to a higher court of justice.

(5) No person shall be remanded for an offence that can involve only punishment consisting of a fine or mitigated imprisonment (haefte).

(6) Outside criminal procedure the legality of deprivation of liberty which is not by order of a judicial authority, and which is not warranted by the legislation dealing with aliens, shall at the request of the person who has been deprived of his liberty, or at the request of any person acting on his behalf, be brought before the ordinary courts of justice or other judicial authority for decision. Rules governing this procedure shall be provided by Statute.

(7) The persons mentioned in subsection (6) shall be under supervision by a board set up by the Folketing, to which board the persons concerned shall be permitted to apply.

### Article 74

Any restraint of the free and equal access to trade, which is not based on the public weal, shall be abolished by Statute.

### Article 75

(1) In order to advance the public weal efforts should be made to afford work to every able-bodied citizen on terms that will secure his existence.

(2) Any person unable to support himself or his dependents shall, where no other person is responsible for his or their maintenance, be entitled to receive public assistance provided that he shall comply with the obligations imposed by Statute in such respect.

#### Article 76

All children of school age shall be entitled to free instruction in the elementary schools. Parents or guardians who themselves arrange for their children or wards receiving instruction equal to the general elementary school standard, shall not be obliged to have their children or wards taught in elementary school.

#### Article 78

(1) The citizens shall be entitled without previous permission to form associations for any lawful purpose.

(2) Associations employing violence, or aiming at attaining their object by violence, by instigation to violence, or by similar punishable influence on people of other views shall be dissolved by judgement.

(3) No association shall be dissolved by any government measure. However, an association may be temporarily prohibited, provided that proceedings be immediately taken against it for its dissolution.

(4) Cases relating to the dissolution of political associations may without special permission be brought before the highest court of justice of the Realm.

(5) The legal effects of the dissolution shall be determined by Statute.

#### Article 83

All privileges by legislation attached to nobility, title and rank shall be abolished.

#### Article 87

Citizens of Iceland who enjoy equal rights with citizens of Denmark under the Danish-Icelandic Union (Abolition), etc. Act, shall continue to enjoy the rights attached to Danish citizenship under the provisions of the Constitution Act.



## **CONSTITUTION OF FINLAND**

Adopted on: 11 June 1999

In force since: 1 March 2000

### Section 6

(1) Everyone is equal before the law.

(2) No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person.

(3) Children shall be treated equally and as individuals and they shall be allowed to influence matters pertaining to themselves to a degree corresponding to their level of development.

(4) Equality of the sexes is promoted in societal activity and working life, especially in the determination of pay and the other terms of employment, as provided in more detail by an Act..

### Section 7

(1) Everyone has the right to life, personal liberty, integrity and security.

(2) No one shall be sentenced to death, tortured or otherwise treated in a manner violating human dignity.

(3) The personal integrity of the individual shall not be violated, nor shall anyone be deprived of liberty arbitrarily or without a reason prescribed by an Act. A penalty involving deprivation of liberty may be imposed only by a court of law. The lawfulness of other cases of deprivation of liberty may be submitted for review by a court of law. The rights of individuals deprived of their liberty shall be guaranteed by an Act.

### Section 9

The rights and obligations of a Finnish citizen shall not be dependent upon the religious community that he belongs to or on whether or not he belongs to any such community. Restrictions enacted in respect of public offices shall, however, remain in force until otherwise provided by statute.

### Section 10

A Finnish citizen shall enjoy freedom of speech as well as the right to publish in print whether in writing or by picture without prior restraint from anyone. He shall also have the right, without acquiring a prior permission, to assemble for a discussion on general issues or for any other lawful purpose as well as to set up associations for purposes that do not violate the law or proper behaviour.

Provisions on the exercise of these rights shall be prescribed by law.

#### Section 11

(1) Everyone has the freedom of religion and conscience

(2) Freedom of religion and conscience entails the right to profess and practice a religion, the right to express one's convictions and the right to be a member of or decline to be a member of a religious community. No one is under the obligation, against his or her conscience, to participate in the practice of a religion.

#### Section 13

(1) Everyone has the right to arrange meetings and demonstrations without a permit, as well as the right to participate in them.

(2) Everyone has the freedom of association. Freedom of association entails the right to form an association without a permit, to be a member or not to be a member of an association and to participate in the activities of an association. The freedom to form trade unions and to organise in order to look after other interests is likewise guaranteed.

(3) More detailed provisions on the exercise of the freedom of assembly and the freedom of association are laid down by an Act.

#### Section 14

The official languages of the Republic are Finnish and Swedish.

The right of a Finnish citizen to use his native language, whether Finnish or Swedish, as a party in proceedings before a court of law or an administrative authority, and to obtain from them documents in that language, shall be guaranteed by law so as to provide for the rights of the Finnish-speaking and the Swedish-speaking populations on the basis of equality.

The cultural and economic needs of the Finnish-speaking and the Swedish-speaking populations shall be met by the State on the basis of equality.

#### Section 16

(1) Everyone has the right to basic education free of charge. Provisions on the duty to receive education are laid down by an Act.

(2) The public authorities shall, as provided in more detail by an Act, guarantee for everyone equal opportunity to receive other educational services in accordance with their ability and special needs, as well as the opportunity to develop themselves without being prevented by economic hardship.

(3) The freedom of science, the arts and higher education is guaranteed.

### Section 17

- (1) The national languages of Finland are Finnish and Swedish.
- (2) The right of everyone to use his or her own language, either Finnish or Swedish, before courts of law and other authorities, and to receive official documents in that language, shall be guaranteed by an Act. The public authorities shall provide for the cultural and societal needs of the Finnish-speaking and Swedish-speaking populations of the country on an equal basis.
- (3) The Sami, as an indigenous people, as well as the Roma and other groups, have the right to maintain and develop their own language and culture. Provisions on the right of the Sami to use the Sami language before the authorities are laid down by an Act. The rights of persons using sign language and of persons in need of interpretation or translation aid owing to disability shall be guaranteed by an Act.

### Section 18

- (1) Everyone has the right, as provided by an Act, to earn his or her livelihood by the employment, occupation or commercial activity of his or her choice. The public authorities shall take responsibility for the protection of the labour force.
- (2) The public authorities shall promote employment and work towards guaranteeing for everyone the right to work. Provisions on the right to receive training that promotes employability are laid down by an Act.
- (3) No one shall be dismissed from employment without a lawful reason.

### Section 19

- (1) Those who cannot obtain the means necessary for a life of dignity have the right to receive indispensable subsistence and care.
- (2) Everyone shall be guaranteed by an Act the right to basic subsistence in the event of unemployment, illness, and disability and during old age as well as at the birth of a child or the loss of a provider.
- (3) The public authorities shall guarantee for everyone, as provided in more detail by an Act, adequate social, health and medical services and promote the health of the population. Moreover, the public authorities shall support families and others responsible for providing for children so that they have the ability to ensure the wellbeing and personal development of the children.
- (4) The public authorities shall promote the right of everyone to housing and the opportunity to arrange their own housing.

## THE FRENCH CONSTITUTION

Adopted by the Referendum of September 28, 1958 and promulgated on October 4, 1958; As Amended on May 18, 1960, October 28, 1962, December 30, 1963 and October 29, 1974

### PREAMBLE

The French people hereby solemnly proclaims its attachment to the Rights of Man and the principles of national sovereignty as defined by the Declaration of 1789, reaffirmed and complemented by the Preamble of the Constitution of 1946.

By virtue of these principles and that of the free determination of peoples, the Republic hereby offers to the Overseas Territories that express the desire to adhere to them, new institutions based on the common ideal of liberty, equality and fraternity and conceived with a view to their democratic evolution.

### Article 1

France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs.

### Article 2

France is a Republic, indivisible, secular, democratic and social. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. It shall respect all beliefs.

The national emblem is the tricolour flag, blue, white and red.

The national anthem is the "Marseillaise."

The motto of the Republic is "Liberty, Equality, Fraternity."

Its principle is government of the people, by the people and for the people.

### Article 34

All laws shall be passed by Parliament.

Laws shall establish the regulations concerning:

- civil rights and the fundamental guarantees granted to citizens for the exercise of their public liberties; the obligations imposed by national defence upon the persons and property of citizens;
- nationality, status and legal capacity of persons, marriage contracts, inheritance and gifts;

- determination of crimes and misdemeanours as well as the penalties imposed therefore; criminal procedure; amnesty; the creation of new juridical systems and the status of magistrates;
- the basis, the rate and the methods of collecting taxes of all types; the issuance of currency.
- Laws shall likewise determine the regulations concerning:
- the electoral system of the Parliamentary assemblies and the local assemblies;
- the establishment of categories of public institutions;
- the fundamental guarantees granted to civil and military personnel employed by the State
- the nationalization of enterprises and the transfer of the property of enterprises from the public to the private sector.

Laws shall determine the fundamental principles of:

- the general organization of national defence;
- the free administration of local communities, the extent of their jurisdiction and their resources;
- education;
- property rights, civil and commercial obligations;
- legislation pertaining to employment, unions and social security.

The financial laws shall determine the financial resources and obligations of the State under the conditions and with the reservations to be provided for by an organic law.

Laws pertaining to national planning shall determine the objectives of the economic and social action of the State.

The provisions of the present article may be developed in detail and amplified by an organic law.

### Article 77

In the Community instituted by the present Constitution, the States shall enjoy autonomy; they shall administer themselves and manage their own affairs democratically and freely.

There shall be only one citizenship in the Community.

All citizens shall be equal before the law, whatever their origin, their race and their religion. They shall have the same duties.

## Constitution of the Fourth French Republic 1946

### PREAMBLE

(1) On the morrow of the victory won by the free peoples over the regimes which sought to enslave and degrade the human person, the French people proclaim anew that all human beings without distinction of race, religion or belief possess inalienable and sacred rights. They solemnly reaffirm the rights and liberties of man and the citizen consecrated by the Declaration of Rights of 1789, and the fundamental principles recognized by the laws of the Republic.

(2) Furthermore, the people proclaim as particularly necessary to our time, the following political, economic, and social principles.

(3) The law guarantees to women rights in every sphere equal to those of men.

(4) Anyone persecuted for the pursuit of freedom has the right of asylum within the territories of the Republic.

(5) Everyone has the duty to work and the right to employment. No one may be disadvantaged in work or employment because of their origins, opinions or beliefs.

(6) Everyone may defend their rights and interest by trade union activities and join the trade union of their choice.

(7) The right to strike is exercised within the framework of the laws, which govern it.

(8) Through his representatives, every worker takes part in collective agreements on conditions of work, as well as in the management of the undertaking.

(9) Every resource or undertaking, which is or acquires the character of a national public service or *de facto* monopoly, must pass into public ownership.

(10) The nation shall ensure to both individuals and the family the conditions necessary for their development.

(11) It shall guarantee to all, and particularly to children, mothers, and elderly workers, health care, material security, rest, and leisure. Every human being who, by reason of age, mental or physical condition, or the economic situation, is incapable of working has the right to obtain from the community the appropriate means of subsistence.

(12) The nation proclaims the solidarity and equality of all the French, confronted by the burdens of a national calamity.

(13) The Nation shall guarantee, to child and adult, equal access to education, vocational training, and culture. The organization of free, secular, public instruction at all levels is a duty of the State.

(14) The French Republic, faithful to its traditions, shall conform to the rules of public international law. It will never engage in wars of conquest, nor use public force against the freedom of a people.

(15) Subject to reciprocity, France consents to limitations of sovereignty necessary for the realization and the defence of peace.

(16) France and the overseas people shall form a Union based on equality of rights and duties without distinction of race or religion.

(17) The French Union shall be composed of nations and peoples who pool or co-ordinate their resources and their efforts in order to develop their own cultures, increase their well-being, and ensure their security.

(18) Faithful to its traditional mission, France intends to lead the peoples under its care towards self-administration and the democratic management of their own affairs; rejecting any systems of colonization founded on arbitrary rule, France shall guarantee everyone equal access to public office, and the individual or collective exercise of the rights and freedoms proclaimed or confirmed above.

### **Declaration of Human rights and of the rights of citizens**

(Adopted by the National Assembly during the French Revolution on August 26, 1789 and reaffirmed by the Constitution of 1958.)

#### *Preamble*

The Representatives of the French People, formed into a National Assembly, considering ignorance, forgetfulness or contempt of the rights of man to be the only causes of public misfortunes and the corruption of Governments, have resolved to set forth, in a solemn Declaration, the natural, inalienable and sacred rights of man, to the end that this Declaration, constantly present to all members of the body politic, may remind them unceasingly of their rights and their duties; to the end that the acts of the legislative power and those of the executive power, since they may be continually compared with the aim of every political institution, may thereby be the more respected; to the end that the demands of the citizens, founded henceforth on simple and incontestable principles, may always be directed toward the maintenance of the Constitution and the happiness of all.

In consequence whereof, the National Assembly recognizes and declares, in the presence and under the auspices of the Supreme Being, the following Rights of Man and of the Citizen.

#### Article 1

All men are born and remain free, and have equal rights. Social distinctions are unjustifiable except insofar as they may serve the common good.

#### Article 2

The purpose of political association is to preserve the natural and inalienable rights of man, i.e., liberty, private property, the inviolability of the person, and the right to resist oppression.

### Article 3

Sovereignty resides essentially in the nation as a whole; no group or individual can exercise any authority not expressly delegated to it or him.

### Article 4

Liberty is the right to do anything, which does not harm others. Thus, each man's natural rights are limited only by the necessity to assure equal liberty to others. Only the law can determine what restrictions must be made.

### Article 5

The law can proscribe only those actions, which harm society. Any action not forbidden by law cannot be disallowed, nor can anyone be forced to do what the law does not specifically command.

### Article 6

Law is the overt expression of the general will. All citizens have the right to participate in legislation, either in person or through their representatives. The law must be framed to operate completely impartially. Since all are equal before the law, all are equally eligible, in accordance with their abilities, for all public offices and positions.

### Article 7

No man can be indicted, arrested, or held in custody except for offences legally defined, and according to specified procedures. Those who solicit, transmit, execute or cause to be executed arbitrary commands must be punished; but if a citizen is summoned or arrested in due legal form it is his duty to obey instantly.

### Article 8

The law must impose only penalties that are obviously necessary. No one can be punished except under the correct application of an established law which must, moreover, have existed before he committed the offence.

### Article 9

Everyone must be presumed innocent until he is pronounced guilty. If his arrest and detention are thought necessary, then no more force may be used than is necessary to secure his person.

### Article 10

No one must suffer for his opinions, even for religious opinions, provided that his advocacy of them does not endanger public order.



Article 11

Free communication of thought and opinion is one of the most valuable rights of man; thus, every citizen may speak, write and print his views freely, provided only that he accepts the bounds of this freedom established by law.

Article 12

Some form of military or police force is necessary to guarantee the maintenance of the rights of man and of the citizen; thus, such a force exists for the benefit of all and not for those who command it.

Article 13

To maintain the police force and to meet administrative expenses a financial levy is essential; this must be borne equally by all citizens, in accordance with their individual means.

Article 14

All citizens have the right to decide, either personally or through their representative, the necessity of a financial levy and their free assent to it must be obtained. They can appropriate it, and decide its extent, duration, and assessment.

Article 15

Society has the right to require of every public official an account of his administration.

Article 16

A society in which rights are not guaranteed, and in which there is no separation of powers, has no constitution.

Article 17

Since the right to private property is sacred and inviolable no one can be deprived of it except in certain cases legally determined to be essential for public security; in such cases a fair indemnity must first of all be granted.

## **BASIC LAW OF THE FEDERAL REPUBLIC OF GERMANY**

The Basic Law was promulgated by the Parliamentary Council on 23 May 1949 and entered into force the next day.

The Parliamentary Council, meeting in public session at Bonn am Rhein on 23 May 1949, confirmed that the Basic Law for the Federal Republic of Germany, which was adopted by the Parliamentary Council on 8 May 1949, was ratified in the week of 16 to 22 May 1949 by the parliaments of more than two thirds of the participating German Länder.

By virtue of this fact the Parliamentary Council, represented by its Presidents, has signed and promulgated the Basic Law.

The Basic Law is hereby published in the Federal Law Gazette pursuant to paragraph (3) of Article 145.

### **PREAMBLE**

Conscious of their responsibility before God and humankind,

Animated by the resolve to serve world peace as an equal part of a united Europe,

The German people have adopted, by virtue of their constituent power, this Basic Law.

The Germans in the Länder of Baden-Württemberg, Bavaria, Berlin, Brandenburg, Bremen, Hamburg, Hessen, Lower Saxony, Mecklenburg-Western, Pomerania, North-Rhine/Westphalia, Rhineland-Palatinate, Saarland, Saxony, Saxony-Anhalt, Schleswig-Holstein and Thuringia have achieved the unity and freedom of Germany in free self-determination. This Basic Law is thus valid for the whole German nation.

### **Article 1 (Protection of human dignity)**

(1) The dignity of man is inviolable. To respect and protect it shall be the duty of all public authority.

(2) The German people therefore uphold human rights as inviolable and inalienable and as the basis of every community, of peace and justice in the world.

(3) The following basic rights shall bind the legislature, the executive and the judiciary as directly enforceable law.

### **Article 3 (Equality before the law)**

(1) All people are equal before the law.

(2) Men and women have equal rights.

(3) Nobody shall be prejudiced or favoured because of their sex, birth, race, language, national or social origin, faith, religion or political opinions.

Article 6 (Marriage and family, children born outside marriage)

- (1) Marriage and family shall enjoy the special protection of the state.
- (2) The care and upbringing of children are a natural right of parents and a duty primarily incumbent on them. It is the responsibility of the community to ensure that they perform this duty.
- (3) Children may not be separated from their families against the will of their parents or guardians save in accordance with a law in cases where they fail in their duty or there is a danger of the children being seriously neglected for other reasons.
- (4) Every mother is entitled to the protection and care of the community.
- (5) Children born outside marriage shall be provided by law with the same opportunities for their physical and mental development and regarding their place in society as are enjoyed by those born in marriage.

Article 7 (Education)

- (1) The entire schooling system stands under the supervision of the state.
- (2) The persons entitled to the upbringing of a child have the right to decide whether the child shall attend religion classes.
- (3) Religion classes form part of the ordinary curriculum in state schools, except for secular schools. Without prejudice to the state's right of supervision, religious instruction is given in accordance with the tenets of the religious communities. No teacher may be obliged against his will to give religious instruction
- (4) The right to establish private schools is guaranteed. Private schools, as a substitute for state schools, require the approval of the state and are subject to the statutes of the States [Länder]. Such approval has to be given where private schools are not inferior to the state schools in their educational aims, their facilities, and the professional training of their teaching staff, and where segregation of pupils according to the means of their parents is not encouraged. Approval has to be withheld where the economic and legal position of the teaching staff is not sufficiently assured.
- (5) A private elementary school has to be permitted only where the education authority finds that it serves a special pedagogic interest, or where, on the application of persons entitled to upbringing of children, it is to be established as an interdenominational school or as a school based on a particular religious or non-religious faith and only if a state elementary school of this type does not exist in the commune.
- (6) Preliminary schools remain abolished.

Article 9 (Freedom of association)

- (1) All Germans have the right to form associations, partnerships and corporations.

(2) Associations whose aims or activities contravene criminal law or are directed against the constitutional order or the notion of international understanding shall be banned.

(3) The right to form associations in order to safeguard and improve working and economic conditions shall be guaranteed to every individual and all occupations and professions. Agreements restricting or intended to hamper the exercise of this right shall be null and void; measures to this end shall be illegal. Measures taken pursuant to Article 12a, paragraphs (2) and (3) of Article 35, paragraph (4) of Article 87a, or Article 91 may not be directed against industrial disputes engaged in by associations within the meaning of the first sentence of this paragraph in order to safeguard and improve working and economic conditions.

#### Article 12 (Free choice of occupation or profession, prohibition of forced labour)

(1) All Germans have the right freely to choose their occupation or profession, their place of work, study or training. The practice of an occupation or profession may be regulated by or pursuant to a law.

(2) Nobody may be forced to do work of a particular kind except as part of a traditional compulsory community service that applies generally and equally to all.

(3) Forced labour may only be imposed on people deprived of their liberty by court sentence.

#### Article 20 (Political and social structure, defence of the constitutional order)

(1) The Federal Republic of Germany shall be a democratic and social federal state.

(2) All public authority emanates from the people. It shall be exercised by the people through elections and referendums and by specific legislative, executive and judicial bodies.

(3) The legislature shall be bound by the constitutional order, the executive and the judiciary by law and justice.

(4) All Germans have the right to resist anybody attempting to do away with this constitutional order, should no other remedy be possible.

#### Article 33 (Equal civil status, professional civil service)

(1) All Germans in every Land have the same civil rights and duties.

(2) All Germans are equally eligible for any public office according to their aptitude, qualifications and professional ability.

(3) The enjoyment of civil rights, eligibility for public office, and rights acquired in the public service shall not depend on a person's religious denomination. Nobody may suffer disadvantage by reason of their adherence or non-adherence to a denomination or their other convictions.

(4) The exercise of public authority as a permanent function shall, as a rule, be entrusted to members of the public service whose status, service and loyalty are governed by public law.

(5) Public service law shall be based on the traditional principles of the professional civil service.

Article 140 (Rights of religious communities)

The provisions of Articles 136, 137, 138, 139 and 141 of the German Constitution of 11 August 1919 shall be an integral part of this Basic Law

**Weimar Constitution**

Article 136

(1) Civil and political rights and duties shall be neither dependent or nor restricted by the exercise of the freedom of religion.

(2) Enjoyment of civil and political rights and eligibility for public office shall be independent of religious denomination.

(3) No one shall be bound to disclose his religious convictions. The authorities shall not have the right to inquire into a person's membership of a religious body except to the extent that rights or duties depend thereon or that a statistical survey ordered by law makes it necessary.

(4) No one may be compelled to perform any religious act or ceremony or to participate in religious exercises or to use a religious form of oath.

Article 137

(1) There shall be no state church.

(2) Freedom of association to form religious bodies shall be guaranteed. The union of religious bodies within the territory of the Reich shall not be subject to any restrictions.

(3) Every religious body shall regulate and administer its affairs autonomously within the limits of the law valid for all. It shall confer its offices without the participation of the state or the civil community.

(4) Religious bodies shall acquire legal capacity according to the general provisions of civil law.

(5) Religious bodies shall remain corporate bodies under public law in so far as they have been such heretofore. The other religious bodies shall be granted like rights upon application, where their constitution and the number of their members offer an assurance of their permanency. Where several such religious bodies under public law unite in one organization, such organization shall also be a corporate body under public law.

(6) Religious bodies that are corporate bodies under public law shall be entitled to levy taxes in accordance with Land law on the basis of the civil taxation lists.

(7) Associations whose purpose is the common cultivation of a philosophical persuasion shall have the same status as religious bodies.

(8) Such further regulation as may be required for the implementation of these provisions shall be a matter for Land legislation.

Article 139

Sunday and the public holidays recognized by the state shall remain legally protected as days of rest from work and of spiritual edification.

## **CONSTITUTION OF GREECE**

11 June 1975

### **THE PRESIDENT OF THE GREEK REPUBLIC**

Pursuant to Resolution No 12 of the Fifth Revisionary Parliament of the Hellenes on the enactment and putting into force of the country's new Constitution, dated 7th June 1975, we decide:

A. The publication in the Government Gazette of the final Constitution of Greece, put into force on the basis of this Resolution. and which is as follows:

### **THE CONSTITUTION OF GREECE**

In the name of the Holy and consubstantial and indivisibal trinity

The Fifth Revisionary Parliament of the Hellenes

resolves

#### Article 4

1. All Greeks are equal before law.
2. Greek men and women have equal rights and equal obligations.
3. All persons possessing the qualifications for citizenship as specified by law are Greek citizens. Withdrawal of Greek citizenship shall be permitted only in case of voluntary acquisition of another citizenship or of undertaking service in a foreign country contrary to the national interests, under the conditions and procedure more specifically provided by law.
- 4 Only Greek citizens shall be eligible for public service, except as otherwise provided by special laws.
5. Greek citizens contribute without distinction to public charges in proportion to their means.
6. Every Greek capable of bearing arms is obliged to contribute to the defence of the Fatherland as provided by law.
7. Titles of nobility or distinction are neither conferred upon Greek citizens nor recognized.

#### Article 5

1. Every person shall have the right to develop freely its personality and to participate in the social, economic and political life of the country, insofar as it does not infringe upon the rights of others or violate the Constitution and moral values.

2. All persons living within the Greek territory shall enjoy full protection of their life, honour and freedom, irrespective of nationality, race or language and of religious or political beliefs. Exceptions shall be permitted only in cases provided for by international law.

The extradition of aliens prosecuted for their action as freedom-fighters shall be prohibited.

3. Personal liberty is inviolable. No one shall be prosecuted, arrested imprisoned or otherwise confined except when and as the law provides.

4. Individual administrative measures restrictive of the free movement or residence in the country and of the free exit and entrance therein of every Greek shall be prohibited. Such measures may be imposed in exceptional cases of emergency and only in order to prevent the commitment of punishable acts, following a criminal court ruling as specified by law. In extremely urgent cases the ruling may be issued after the administrative measure has been imposed and within three days at the latest, otherwise it is lifted *ipso jure*.

***Interpretative clause:***

*Paragraph 4 does not preclude the prohibition of exit from the country for persons, being prosecuted on criminal charges by act of the public prosecutor, or the imposition of measures necessary for the protection of public health or the health of sick persons, as specified by law.*

Article 12

1. Greeks shall have the right to form non-profit associations and unions, in compliance with the law, which, however, may never subject the exercise of this right to prior permission.

2. An association may not be dissolved for violation of the law or of substantial provision of its statutes except by court judgement.

3. The provisions of the preceding paragraph shall apply as the case may be, to unions of persons not constituting an association.

4. Restrictions on the right of civil servants to associate may be imposed by law. Restrictions on this right may also be imposed on employees of local government agencies or other public law corporate bodies or public corporations.

5. Agricultural and urban cooperatives of all types shall be self-governed according to the provisions of the law and of their statutes; they shall be under the protection and supervision of the State, which is obliged to provide for their development.

6. Establishment by law of compulsory cooperatives serving purposes of common benefit or public interests or common exploitation of farming areas or other wealthproducing sources shall be permitted, on condition however that the equal treatment of all participants shall be assured.

Article 16

1. Art and science, research and teaching shall be free and their development and promotion shall be an obligation of the State. Academic freedom and freedom of teaching shall not exempt anyone from his duty of allegiance to the Constitution.



2. Education constitutes a basic mission for the State and shall aim at the moral, intellectual, professional and physical training of Greeks, the development of national and religious conscience and at their formation as free and responsible citizens.

3. The number of years of compulsory education shall not be less than nine.

4. All greeks are entitled to free education on all levels at State educational institutions. The State shall provide financial assistance to those who distinguish themselves, as well as to students in need of assistance or special protection, in accordance with their abilities.

5. Education at university level shall be provided exclusively by institutions, which are fully self-governed public law corporate bodies. These institutions shall operate under the supervision of the State and are entitled to financial assistance thereof; they shall operate on the basis of their statutory laws. Merging of splitting of university level institutions may take place notwithstanding any contrary provisions, as a law shall provide. A special law shall define all matters pertaining to student associations and the participation of students therein.

6. Professors of university level institutions shall be public officers. The remaining teaching personnel likewise perform a public function, under the conditions specified by law. The statutes of respective institutions shall define matters relating to the status of all the above.

Professors of university level institutions shall not be dismissed prior to the lawful termination of their term of service, except in the case of the substantial provisions under article 88 paragraph 4 and following a decision by a council whose majority is constituted by highest judicial functionaries, as specified by law.

The retiring age of professors of university level institutions shall be defined by law; until such law is issued professors on active service shall retire ipso jure at the end of the academic year at which they have reached the age of sixty-seven.

7. Professional and any other form of special education shall be provided by the State, through schools of a higher level and for a time period not exceeding three years, as specifically provided by law which also defines the professional rights of graduates of such schools.

8. The conditions and terms for granting a license for the establishment and operation of schools not owned by the State, the supervision of such and the professional status of teaching personnel therein shall be specified by law.

The establishment of university institutions by private persons is prohibited.

9. Sports shall be under the protection and the ultimate supervision of the State.

The State shall make grants to and shall control all types of sporting associations, as specified by law. The use of grants, in accordance with the purpose of the associations receiving them shall also be specified by law.

## Article 21

1. The family, as the foundation of the preservation and the advancement of the Nation, as well as marriage, motherhood and childhood shall be under the protection of the State.

2. Families with many children, persons disabled in war and peacetime victims, war widows and orphans, as well as persons suffering from incurable bodily or mental disease are entitled to the special care of the State.

3. The State shall care for the health of citizens and shall adopt special measures for the protection of youth, old age, the disabled and for the relief of the needy.

4. The acquisition of a home by the homeless or those inadequately sheltered shall constitute an object of special State care.

#### Article 22

1. Work constitutes a right and shall enjoy the protection of the State, which shall care for the establishment of conditions of employment for all citizens and of the moral and material advancement of the rural and urban working population.

All working people, irrespective of sex or other distinctions, shall be entitled to equal pay for work of equal value rendered.

2. General working conditions shall be determined by law, supplemented by collective labour agreements contracted through free negotiations and, in case of the failure thereof by rules stipulated by arbitration.

3. Any form of compulsory work is prohibited.

Special laws shall determine the requisition of personal services in case of war or mobilization or to face defence needs of the country or urgent social emergencies resulting from disasters or liable to endanger public health, as well as the offer of personal work to local government agencies to satisfy local needs.

4. The State shall care for the social security of the working people, as specified by law.

#### ***Interpretative clause:***

*The general working conditions comprise the definition of the manner of collection and the obligation to collect and return to trade unions membership fees, specified in their respective statutes.*

#### Article 23

1. The State shall adopt due measures safeguarding trade union freedom and the unhindered exercise of related rights hereto within the limits of the law, against any infringement.

2. Strike constitutes a right, and is exercised by lawfully established trade unions in order to protect and promote the financial and the general labour interests of the working people.

Strikes under any form whatsoever are prohibited in the case of judicial functionaries and those serving in the security corps. The right to strike shall be subject to the specific limitations of the law regulating this right in the case of public servants and employees of local government agencies and of public law corporate bodies as well as in the case of the

employees of all types of enterprises of public nature or of public utility, the operation of which is of vital importance in serving the basic needs of the social entity. These limitations cannot be carried to the point of abolishing the right to strike or hindering the legal exercise of this right.

Article 108

The State shall care for Greeks residing abroad and for the maintenance of their ties with the Mother Homeland. The State shall also attend to the education and social and professional advancement of Greeks working outside the State.

## CONSTITUTION OF IRELAND

### BUNREACT NA EIRANN

(Enacted by the People 1st July, 1937; in operation as from 29th December, 1937)

#### Article 9

(1.3) No person may be excluded from Irish nationality and citizenship by reason of the sex of such person.

#### Article 16

(1.1) Every citizen without distinction of sex who has reached the age of twenty-one years, and who is not placed under disability or incapacity by this Constitution or by law, shall be eligible for membership of the House of Representatives.

(1.2)(i) All citizens, and

(ii) such other persons in the State as may be determined by law, without distinction of sex who have reached the age of eighteen years who are not disqualified by law and comply with the provisions of the law relating to the election of members of the House of Representatives, shall have the right to vote at an election for members of the House of Representatives.

(1.3) No law shall be enacted placing any citizen under disability or incapacity for membership of the House of Representatives on the ground of sex or disqualifying any citizen or other person from voting at an election for members of the House of Representatives on that ground.

#### Article 40

1. All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.

2. 1° Titles of nobility shall not be conferred by the State

2° No title of nobility or of honour may be accepted by any citizen except with the prior approval of the Government.

3. 1° The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.

2° The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name, and property rights of every citizen.

3° The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right.

4. 1° No citizen shall be deprived of his personal liberty save in accordance with law.

2° Upon complaint being made by or on behalf of any person to the High Court or any judge thereof alleging that such person is being unlawfully detained, the High Court and any and every judge thereof to whom such complaint is made shall forthwith enquire into the said complaint and may order the person in whose custody such person is detained to produce the body of such person before the High Court on a named day and to certify in writing the grounds of his detention, and the High Court shall, upon the body of such person being produced before that Court and after giving the person in whose custody he is detained an opportunity of justifying the detention, order the release of such person from such detention unless satisfied that he is being detained in accordance with the law.

3° Where the body of a person alleged to be unlawfully detained is produced before the High Court in pursuance of an order in that behalf made under this section and that Court is satisfied that such person is being detained in accordance with a law but that such law is invalid having regard to the provisions of this Constitution, the High Court shall refer the question of the validity of such law to the Supreme Court by way of case stated and may, at the time of such reference or at any time thereafter, allow the said person to be at liberty on such bail and subject to such conditions as the High Court shall fix until the Supreme Court has determined the question so referred to it.

4° The High Court before which the body of a person alleged to be unlawfully detained is to be produced in pursuance of an order in that behalf made under this section shall, if the President of the High Court or, if he is not available, the senior judge of that Court who is available so directs in respect of any particular case, consist of three judges and shall, in every other case, consist of one judge only.

5° Where an order is made under this section by the High Court or a judge thereof for the production of the body of a person who is under sentence of death, the High Court or such judge thereof shall further order that the execution of the said sentence of death shall be deferred until after the body of such person has been produced before the High Court and the lawfulness of his detention has been determined and if, after such deferment, the detention of such person is determined to be lawful, the High Court shall appoint a day for the execution of the said sentence of death and that sentence shall have effect with the substitution of the day so appointed for the day originally fixed for the execution thereof.

6° Nothing in this section, however, shall be invoked to prohibit, control, or interfere with any act of the Defence Forces during the existence of a state of war and armed rebellion.

5. The dwelling of every citizen is inviolable and shall not be forcibly entered save in accordance with law.

6. 1° The State guarantees liberty for the exercise of the following rights, subject to public order and morality:

i. The right of the citizens to express freely their convictions and opinions.

The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression,

including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State.

The publication or utterance of blasphemous, seditious, or indecent matter is an offence, which shall be punishable in accordance with law.

ii. The right of the citizens to assemble peaceably and without arms.

Provision may be made by law to prevent or control meetings which are determined in accordance with law to be calculated to cause a breach of the peace or to be a danger or nuisance to the general public and to prevent or control meetings in the vicinity of either House of the Oireachtas.

iii. The right of the citizens to form associations and unions.

Laws, however, may be enacted for the regulation and control in the public interest of the exercise of the foregoing right.

2° Laws regulating the manner in which the right of forming associations and unions and the right of free assembly may be exercised shall contain no political, religious or class discrimination.

#### Article 41

1. 1° The State recognises the Family as the natural primary and fundamental unit group of Society, and as a moral institution possessing inalienable and impress corruptible rights, antecedent and superior to all positive law.

2° The State, therefore, guarantees to protect the Family in its constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the Nation and the State.

2. 1° In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved

2° The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

3. 1° The State pledges itself to guard with special care the institution of Marriage, on which the Family is founded, and to protect it against attack.

2° No law shall be enacted providing for the grant of a dissolution of marriage.

3° No person whose marriage has been dissolved under the civil law of any other State but is a subsisting valid marriage under the law for the time being in force within the jurisdiction of the Government and Parliament established by this Constitution shall be capable of contracting a valid marriage within that jurisdiction during the lifetime of the other party to the marriage so dissolved.

## **Fundamental Rights**

### Article 42

(1) The State acknowledges that the primary and natural educator of the child is the Family and guarantees to respect the

inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.

(2) Parents shall be free to provide this education in their homes or in private schools or in schools recognized or established by the State.

(3.1) The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.

(3.2) The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education. moral. intellectual and social.

(4) The State shall provide for free primary education and shall endeavor to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation .

(5) In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavor to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

## **Directive Principles of Social Policy**

### Article 45

The principles of social policy set forth in this Article are intended for the general guidance of the Oireachtas. The application of those principles in the making of laws shall be the care of the Oireachtas exclusively, and shall not be cognisable by any Court under any of the provisions of this Constitution.

1. The State shall strive to promote the welfare of the whole people by securing and protecting as effectively as it may a social order in which justice and charity shall inform all the institutions of the national life.

2. The State shall, in particular, direct its policy towards securing:

- i. That the citizens (all of whom, men and women equally, have the right to an adequate means of livelihood) may through their occupations find the means of making reasonable provision for their domestic needs

- ii. That the ownership and control of the material resources of the community may be so distributed amongst private individuals and the various classes as best to subserve the common good.
  - iii. That, especially, the operation of free competition shall not be allowed so to develop as to result in the concentration of the ownership or control of essential commodities in a few individuals to the common detriment.
  - iv. That in what pertains to the control of the constant and predominant aim be the welfare of the people as a whole.
  - v. That there may be established on the land in economic security as many families as in the circumstances shall be practicable.
3. 1° The State shall favour and, where necessary, supplement private initiative in industry and commerce.
- 2° The State shall endeavour to secure that private enterprise shall be so conducted as to ensure reasonable efficiency in the production and distribution of goods and as to protect the public against unjust exploitation.
4. 1° The State pledges itself to safeguard with especial care the economic interests of the weaker sections of the community, and, where necessary, to contribute to the support of the infirm, the widow, the orphan, and the aged.
- 2° The State shall endeavour to ensure that the strength and health of workers, men and women, and the tender age of children shall not be abused and that citizens shall not be forced by economic necessity to enter avocations unsuited to their sex, age or strength.



## **CONSTITUTION OF ITALY**

### **THE PROVISIONAL HEAD OF THE STATE**

By virtue of the decision of the Constituent Assembly which, on December 22, 1947, approved the Constitution of the Italian Republic and;

In consideration of the XVIII Final Provisions; proclaims the Constitution of the Republic of Italy as follows:

#### Article 1

Italy is a democratic Republic founded on labour.

Sovereignty belongs to the people who exercise it in the manner and within the limits laid down by the Constitution

#### Article 3

All citizens are invested with equal social status and are equal before the law, without distinction as to sex, race, language, religion, political opinions and personal or social conditions.

It is the responsibility of the Republic to remove all obstacles of an economic and social nature which, by limiting the freedom and equality of citizens, prevent the full development of the individual and the participation of all workers in the political, economic and social organization of the country.

#### Article 4

The Republic recognizes the right of all citizens to work and promotes such conditions as will make this right effective.

Every citizen shall undertake, according to his possibilities and his own choice, an activity or a function contributing to the material and moral progress of society.

#### Article 8

(1) All religious denominations shall be equally free before the law.

(2) Religious denominations other than Catholic shall have the right to organize themselves according to their own by-laws provided that they are not in conflict with the Italian legal system.

(3) Their relations with the State shall be regulated by law on the basis of agreements with their respective representatives.

### Article 10

Italy's legal system conforms with the generally recognized principles of international law.

The legal status of foreigners is regulated by law in conformity with international rules and treaties.

A foreigner to whom the practical exercise in his own country of democratic freedoms, guaranteed by the Italian Constitution, is precluded, is entitled to the right of asylum within the territory of the Republic, under conditions laid down by law.

The extradition of a foreigner for political offences is not admitted.

### Article 16

Every citizen has the right to reside and travel freely in any part of the metropolitan territory, save for such limitations as the laws may prescribe in a general way for reasons of health or security. No restrictions may be prescribed for political reasons.

Every citizens is free to leave the territory of the Republic and re-enter it, save for such obligations as are laid down by law.

### Article 18

Citizens are entitled to form associations without authorization for reasons not forbidden to individuals by criminal law.

Secret associations and those, which pursue political aims, even indirectly, by means of organizations of a military character, are forbidden.

### Article 23

No personal service or payment may be forced on anyone, save according to law.

### Article 29

(1) The Republic recognizes the rights of the family as a natural association founded on marriage.

(2) Marriage is based on the moral and legal equality of the spouses, within the limits laid down by law to safeguard the unity of the family.

### Article 30

It is the duty and right of parents to support, instruct and educate their children, even those born out of wedlock.

Should the parents prove incapable, the law states the way in which these duties shall be fulfilled.

The law ensures full legal and social protection for children born out of wedlock consistent with the rights of the members of the legitimate family.

The law lays down rules and limitations for ascertaining paternity.

#### Article 31

The Republic facilitates by means of economic and other provisions, the formation of the family and the fulfilment of the tasks connected therewith, with particular consideration for large families.

It safeguards maternity, infancy and youth, promoting and encouraging institutions necessary for such purposes.

#### Article 32

The Republic provides health safeguards as a basic right of the individual and in the interest of the community, and grants medical assistance to the indigent free of charge.

On one may be forced to undergo any particular medical treatment, save under the provisions of the law. In no case shall the law violate the limits imposed by proper respect for the human person.

#### Article 33

(1) The arts and sciences shall be free, and free shall be their teaching.

(2) The Republic shall lay down general rules for education and shall establish public schools of all kinds and grades. Public and private bodies shall be entitled to establish schools and educational institutions without financial burdens on the State.

(3) The law, in laying down the rights and obligations of private schools which request parity, shall guarantee full liberty to them, and to their pupils equality of treatment with the pupils of public schools.

(4) State examinations shall be prescribed for admission to the various types and grades of schools, or on the conclusion of educational courses, and to qualify for a profession or trade.

(5) Institutions of higher learning, universities, and academies shall have the right to establish their own by-laws within the limits laid down by State laws.

#### Article 34

(1) Schools shall be open to everyone.

(2) Primary education, given for at least eight years, is compulsory and free.

(3) The able and deserving, even if lacking financial resources, shall have the right to attain the highest grades of learning

### Article 35

The Republic safeguards labour in all its forms and methods of execution.

It provides for the professional or vocational training and advancement of workers.

It promotes and encourages international agreements, and organizations calculated to confirm and regulate the rights of labour.

It admits freedom to emigrate, save for such limitations as are prescribed by law in the general interests, and for the protection of Italian labour abroad.

### Article 36

An employed person is entitled to wages in proportion to the quantity and quality of his work, and in any case sufficient to provide him and his family with a free and dignified existence.

The maximum number of hours of work per day is fixed by law.

An employed person is entitled to a weekly day of rest and to annual holidays with pay: he cannot relinquish this right.

### Article 37

Female labour enjoys equal rights and the same wages for the same work as male labour. Conditions of work must make it possible for them to fulfil their essential family duties and provide for the adequate protection of mothers and children.

The law prescribes the minimum age for paid labour<sup>1</sup> (1).

The Republic prescribes special measures for safeguarding juvenile labour and guarantees equal pay for equal work.

### Article 38

Every private citizen unable to work and unprovided with the resources necessary for existence is entitled to private and social assistance.

Workers are entitled to adequate insurance for their requirements in case of accident, illness, disability, old age, and involuntary unemployment.

The disabled and persons incapable of employment are entitled to education and vocational training.

The responsibilities laid down in this Article are entrusted to organs and institutions provided or assisted by the State.

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<sup>1</sup> Age limits in Italy are subject to the conditions laid down in the Washington (1919) and Geneva (1930) agreements which generally establish that fourteen years is the minimum age for entry to paid employment.

The freedom of private assistance is affirmed.

#### Article 39

Freedom in the organization of trades unions is affirmed.

No compulsion may be imposed on trades unions except that of registering at local or central offices according to the provisions of the law.

A condition of registration is that the statutes of the unions sanction an internal organization on a democratic basis.

Registered trades unions have a legal status. They may, being represented in proportion to the number of their registered members, negotiate collective labour agreements having compulsory value for all persons belonging to the categories to which the said agreements refer.

#### Article 40

The right to strike is exercised within the sphere of the laws concerning the subject.<sup>2</sup>

#### Article 41

Private economic enterprise is open to all.

It cannot, however, be applied in such a manner as to be in conflict with social utility or when it is prejudicial to security, freedom and human dignity.

The law prescribes such planning and controls as may be advisable for directing and coordinating public and private economic activities towards social objectives.

#### Article 46

With a view to the economic and social progress of labour and in conformity with the requirements of production, the Republic recognizes the rights of workers to participate in management in the manner and within the limits prescribed by law.

#### Article 170

The Regions may not levy import or export duties or duties on transit between Regions.

The Regions may not adopt provisions, which hinder the free movement of persons or goods between Regions.

The Regions may not limit the right of citizens to exercise their professions, employment or labour in any part of national territory.

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<sup>2</sup> Such a right must be governed by law, which can also limit it. Although the right to strike is recognized, the Constitution does not permit lock-outs.

## CONSTITUTION OF THE GRAND DUCHY OF LUXEMBOURG

17 Oct 1868

### Article 9

- (1) The status of Luxembourger shall be acquired, retained, and lost in accordance with the rules determined by civil law.
- (2) The Constitution and the other laws relating to political rights determine what conditions in addition to this status are necessary for the exercise of these rights.
- (3) By way of derogation from the preceding paragraph, the law may confer the exercise of political rights to non-Luxembourgers.

### Article 11

- (1) There is no distinction of orders in the State.
- (2) Luxembourgers are equal before the law; they alone are eligible for civil and military service, save as the law may in particular cases otherwise provide.
- (3) The State guarantees the natural rights of the individual and of the family.
- (4) The law guarantees the right to work and assure to every citizen the exercise of this right.
- (5) The law organizes the social security, health protection, and rest of workers and guarantee the freedom of trade unions.
- (6) The law guarantees freedom of trade and industry, the exercise of the professions and of agricultural labor, subject to any restrictions that may be imposed by the legislature.

### Article 23

The State shall ensure that every Luxembourger receives primary education, which shall be compulsory and provided free of charge. Medical and social assistance shall be regulated by the law.

The State shall set up secondary educational establishments and the necessary courses of higher education. It shall also establish free vocational training courses.

The law shall determine the means of supporting State education and the conditions under which it is to be supervised by the Government and the communes; it shall also regulate all educational matters and create a fund for the exceptionally gifted.

Every Luxembourger shall be free to pursue his studies in the Grand Duchy or abroad and to attend universities of his own choosing, subject to the provisions of the law concerning admission to employment and the exercise of certain callings.

Article 26

Luxembourgers shall enjoy freedom of association.

This right shall not be made subject to any prior authorization.

The establishment of any religious corporation shall require to be authorized by a law.

Article 111

Every foreigner on the territory of the Grand Duchy shall enjoy the protection afforded to persons and property, except as otherwise provided by the law.

## CONSTITUTION OF THE KINGDOM OF THE NETHERLANDS

17 Feb 1983

### Article 1

All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted.

### Article 8

The right of association shall be recognized. This right may be restricted by Act of Parliament in the interest of public order.

### Article 10

(1) Everyone shall have the right to respect for his privacy, without prejudice to restrictions laid down by or pursuant to Act of Parliament.

(2) Rules to protect privacy shall be laid down by Act of Parliament in connection with the recording and dissemination of personal data.

(3) Rules concerning the rights of persons to be informed of data recorded concerning them and of the use that is made thereof, and to have such data corrected shall be laid down by Act of Parliament.

### Article 19

1. It shall be the concern of the authorities to promote the provision of sufficient employment.

2. Rules concerning the legal status and protection of working persons and concerning co-determination shall be laid down by Act of Parliament.

3. The right of every Dutch national to a free choice of work shall be recognized without prejudice to the restrictions laid down by or pursuant to Act of Parliament.

### Article 20

1. It shall be the concern of the authorities to secure the means of subsistence of the population and to achieve the distribution of wealth.

2. Rules concerning entitlement to social security shall be laid down by Act of Parliament.

3. Dutch nationals resident in the Netherlands who are unable to provide for themselves shall have a right, to be regulated by Act of Parliament, to aid from the authorities.



## Article 22

1. The authorities shall take steps to promote the health of the population.
2. It shall be the concern of the authorities to provide sufficient living accommodation.
3. The authorities shall promote social and cultural development and leisure activities.

## Article 23

- (1) Education shall be the constant concern of the Government.
- (2) All persons shall be free to provide education, without prejudice to the authorities' right of supervision and, with regard to forms of education designated by law, its right to examine the competence and moral integrity of teachers, to be regulated by Act of Parliament.
- (3) Education provided by public authorities shall be regulated by Act of Parliament, paying due respect to everyone's religion or belief.
- (4) The authorities shall ensure that primary education is provided in a sufficient number of public-authority schools in every municipality. Deviations from this provision may be permitted under rules to be established by Act of Parliament on condition that there is opportunity to receive the said form of education.
- (5) The standards required of schools financed either in part or in full from public funds shall be regulated by Act of Parliament, with due regard, in the case of private schools, to the freedom to provide education according to religious or other belief.
- (6) The requirements for primary education shall be such that the standards both of private schools fully financed from public funds and of public-authority schools are fully guaranteed. The relevant provisions shall respect in particular the freedom of private schools to choose their teaching aids and to appoint teachers as they see fit.
- (7) Private primary schools that satisfy the conditions laid down by Act of Parliament shall be financed from public funds according to the same standards as public-authority schools. The conditions under which private secondary education and pre-university education shall receive contributions from public funds shall be laid down by Act of Parliament.
- (8) The Government shall submit annual reports on the state of education to the Parliament.

## Article 98

- 1 To protect its interests, the State shall maintain armed forces consisting of volunteers and conscripts.
2. The Government shall have supreme authority over the armed forces.
3. Compulsory service in the armed forces shall be regulated by Act of Parliament. The obligations which may be imposed on persons not belonging to the armed forces in relation to the defence of the country shall also be regulated by Act of Parliament.

### Article 109

The legal status of public servants shall be regulated by Act of Parliament. Rules regarding employment protection and co-determination for public servants shall also be laid down by Act of Parliament.

### Article 134

1. Public bodies for the professions and trades and other public bodies may be established and dissolved by or pursuant to Act of Parliament.

2. The duties and organization of such bodies, the composition and powers of their administrative organs and public access to their meetings shall be regulated by Act of Parliament. Legislative powers may be granted to their administrative organs by or pursuant to Act of Parliament.

3. Supervision of the administrative organs shall be regulated by Act of Parliament. Decisions by the administrative organs may be quashed only if they are in conflict with the law or the public interest.

## **CONSTITUTION OF THE PORTUGUESE REPUBLIC**

### **FOURTH REVISION 1997**

Constitutional law no. 1/97 of 20 September

#### Article 2 (Democratic State based on the rule of law)

The Portuguese Republic is a democratic State based on the rule of law, the sovereignty of the people, plurality of both democratic expression and democratic political organisation as well as respect for and the safeguarding of fundamental rights and freedoms; its aim is to achieve economic, social and cultural democracy and to push participatory democracy further.

#### Article 12 (Principle of universality)

1. All citizens shall enjoy the rights and be subject to duties laid down in the Constitution.
2. Bodies corporate shall enjoy such rights and be subject to such duties as are compatible with their nature.

#### Article 13 (Principle of equality)

1. All citizens shall have the same social dignity and shall be equal before the law.
2. No one shall be privileged, favoured, injured, deprived of any right or exempt from any duty because of his ancestry, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation or social condition.

#### Article 15 (Aliens and stateless persons)

1. Aliens and stateless persons staying or residing in Portugal shall enjoy the same rights and be subject to the same duties as Portuguese citizens.
2. The foregoing paragraph shall not apply to political rights, to the performance of public duties that are not predominantly technical or to rights and duties restricted to Portuguese citizens under the Constitution and by law.
3. Citizens of Portuguese speaking countries may, by international convention and subject to reciprocity, be granted rights not otherwise conferred to aliens, except the right of access to membership of the organs of supreme authority and the organs of self-government of the autonomous regions, service in the armed forces and access to the diplomatic service.
4. Subject to reciprocity, the law may confer upon aliens residing on the national territory the right to vote and to stand for election with respect to the election of members of organs of local authority.
5. Provided that there is reciprocity, the law may also confer upon citizens of the Member States of the European Union, who reside in Portugal, the right to vote for, and to stand for election as, Members of the European Parliament

Article 16 (Fundamental rights: scope and sense)

1. The fundamental rights embodied in the Constitution shall not exclude any other fundamental rights, either in the statute or resulting from applicable rules of international law.
2. The provisions of the Constitution and laws relating to fundamental rights shall be read and interpreted in harmony with the Universal Declaration of Human Rights.

ARTICLE 26

1. Everyone is recognised as having the right to his or her personal identity, personality development, civil capacity, citizenship, good name and reputation, and likeness, the right to speak out and the right to the protection of the privacy of his or her personal and family life and to legal protection against any form of discrimination.
2. The law shall establish effective guarantees against the misuse, or use that is contrary to human dignity, of information concerning individuals or families.
3. The law shall guarantee the personal dignity and genetic identity of the human being, particularly in the creation, development and use of technology and in scientific experimentation.
4. A person may be deprived of citizenship or subjected to restrictions on his or her civil capacity only in the cases and under the conditions laid down by law, and never on political grounds.

Article 35

1. All citizens have the right of access to any computerised data relating to them and the right to be informed of the use for which the data is intended, under the law; they are entitled to require that the contents of the files and records be corrected and brought up to date.
2. The law shall determine what is personal data as well as the conditions applicable to automatic processing, connection, transmission and use thereof, and shall guarantee its protection by means of an independent administrative body.
3. Computerised storage shall not be used for information concerning a person's ideological or political convictions, party or trade union affiliations, religious beliefs, private life or ethnic origin, except where there is express consent from the data subject, authorisation provided for under the law with guarantees of non-discrimination or, in the case of data, for statistical purposes, that does not identify individuals.
4. Access to personal data of third parties is prohibited, except in exceptional cases as prescribed by law.
5. Citizens shall not be given an all-purpose national identity number.
6. Everyone shall be guaranteed free access to public information networks and the law shall define the regulations applicable to the transnational *data* flows and the adequate norms of protection for personal *data* and for *data* that should be safeguarded in the national interest.

7. Personal *data* kept on manual files shall benefit from protection identical to that provided for in the above articles, in accordance with the law.

Article 36 (Family, marriage and filiation)

1. Everyone has the right to found a family and to marry on terms of full equality.
2. The requirements for, and the consequences of, marriage and its termination by death or divorce shall be regulated by law, without distinctions arising from the manner in which the marriage is contracted.
3. Spouses have equal rights in relation both to their civil and political capacity and to the education and maintenance of their children.
4. Children born outside marriage shall not be discriminated against on that ground; terms describing filiation that are discriminatory shall not be used by the law or by government departments.
5. Parents have the right and the duty to educate and maintain their children.
6. Children shall not be separated from their parents unless the parents fail to perform their fundamental duties towards the children, and in that case only by judicial decision.
7. Adoption shall be regulated and protected by the law, which shall ensure expeditious conduct of the procedure

Article 40 (Right to broadcasting time, to reply and to political argument)

1. The political parties, the trade unions, the professional organizations and the organizations representing economic activities, according to their representativeness and to objective criteria that the law shall lay down, shall have the right to broadcasting time on publicly owned radio and television.
2. The political parties represented in the Assembly of the Republic and not in Government shall have the right to broadcasting time on publicly owned radio and television, on a pro rata basis and in accordance with the law; they shall also have the right to reply and to political argument with respect to the political statements of the Government, in accordance with the law. The length and the relevance afforded to the exercise of such rights shall be equal to what the Government was respectively granted.
3. In election periods the competitors shall have the right to regular and equitable broadcasting time on radio and television stations of national and regional relevance, in accordance with the law.

Article 43

1. Freedom to learn and teach is guaranteed.
2. The State shall not plan education and cultural development in accordance with any philosophical, aesthetic, political, ideological or religious precepts.

3. Public education shall be non-denominational.
4. The right to establish private and co-operative schools is guaranteed.

Article 46 (Freedom of association)

1. Citizens shall have the right to form associations freely and without requiring any authorisation provided such associations are not intended to promote violence and their objectives are not contrary to the criminal law.
2. Associations may pursue their objectives freely without interference by any public authority. They shall not be dissolved by the State and their activities shall not be suspended except by judicial decision in the cases provided by law.
3. No one shall be obliged to join any association or forced by any means to remain in it.
4. Armed, military-type, militarised or para-military associations outside the State and the Armed Forces and organisations which adopt fascist ideology shall not be permitted.

Article 47 (Freedom to choose one's occupation and enter the civil service)

1. Everyone shall have the right to choose freely his or her occupation or type of work, except for legal restrictions laid down in the public interest or inherent to his or her own capacity.
2. All citizens shall have the right to enter the civil service under conditions of equality and freedom, generally through public competitions.

**CHAPTER III Rights, freedoms and safeguards of the workers**

Article 51

3. Without prejudice to the philosophy or ideology underlying their programmes, political parties shall not use names that contain expressions directly connected with any religion or church, or use emblems that may be mistaken for national or religious symbols.

Article 52

1. All citizens have the right to submit, individually or jointly with others, petitions, representations, claims or complaints to the organs with supreme authority or any authority, for the purpose of defending their rights, this Constitution, the law or the general interest, as well as the right to be informed, within a reasonable time, of the result of the respective consideration.
2. The law shall determine the conditions under which joint petitions submitted to the Assembly of the Republic may be examined in plenary session.
3. Everyone, personally or through associations that purport to defend the interests in issue, enjoys the right of *actio popularis* in the cases and under the conditions provided by law, including the right to advocate, on behalf of the aggrieved party or parties, the following:

- a) to promote the prevention, the suppression and the prosecution of offences against public health, consumer rights, the quality of life, the preservation of the environment and the cultural heritage;
- b) to safeguard the property of the State, of the autonomous regions and of the local authorities.

Article 53 (Job security)

The right of workers to job security shall be safeguarded. Dismissals without just cause or for political or ideological reasons shall be forbidden.

Article 54 (Workers' Committees)

1. Workers shall have the right to set up committees for the defence of their interests and for a democratic share in the running of their enterprise.
2. The establishment of the committees shall be determined by general assemblies of the workers, who shall also approve their statutes and elect their members by direct and secret ballot.
3. Co-ordinating committees may be set up, in such a form as to safeguard the interests of the workers, for the purpose of more effective intervention in economic reorganisation.
4. The members of the committees shall enjoy the protection afforded by law to trade union delegates.
5. Workers committees shall have the right to:
  - a. Receive all information needed for the pursuit of their activities;
  - b. supervise the management of enterprises;
  - c. Intervene in the reorganisation of production units;
  - d. Participate in the drawing up of labour legislation and social and economic plans concerning their sector;
  - e. Manage or participate in the management of the social works of enterprises;
  - f. Promote the election of representatives of the workers to the management organs of enterprises belonging to the State or other public bodies, in accordance with the law.

Article 55 (Trade union freedom)

1. Workers shall be free to form trade unions, a condition and safeguard for the building of their unity in defence of their rights and interests.
2. In the exercise of trade union freedom the following freedoms shall be safeguarded for workers without discrimination:

- a. Freedom to set up trade union associations at all levels;
  - b. Freedom of membership, no worker being required to pay dues to a trade union of which he is not a member;
  - c. Freedom in the organisation and internal regulation of trade union associations;
  - d. The right to engage in trade union activity within the enterprise;
  - e. The right to different tendencies, in ways to be determined by the statutes thereof.
3. Trade union associations shall be governed by the principles of democratic organisation and management, based on regular elections to their governing bodies by secret ballot. They shall not be subject to any authorisation or recognition, their foundation being active participation by the workers in all aspects of trade union activity.
4. Trade union associations shall be independent of employers, the State, religious denominations. Adequate safeguards for such independence shall be laid down by law as the foundation of the unity of the working classes.
5. Trade union associations shall have the right to establish relations with or to join international trade union organisations.
6. The law shall secure adequate protection to the elected representatives of workers against any forms of constraint, coercion or limitation of the legitimate performance of their duties.

Article 56 (Rights of trade union associations and collective agreements)

1. The trade union associations shall be competent to defend and promote the defence of the rights and interests of the workers they represent.
2. Trade union associations shall have the right to:
  - a. Participate in the preparation of labour legislation;
  - b. Participate in the management of social security institutions and other bodies whose aim is to satisfy the interests of the working classes;
  - c. Participate in the supervision of the implementation of economic and social plans
  - d. Be represented in the social dialogue bodies, in accordance with the law.
3. Trade union associations shall have the powers to exercise the right of concluding collective agreements.
4. The rules governing the powers to conclude collective labour agreements and the scope of their provisions shall be laid down by law.



Article 57 (Right to strike and prohibition of lock-outs)

1. The right to strike shall be safeguarded.
2. Workers shall be entitled to decide what interests, are to be protected by means of strikes. The sphere of such interests shall not be restricted by law.
3. Lock-outs shall be prohibited.

**SECTION III Economic, social and cultural rights and duties**

CHAPTER I Economic rights and duties

Article 58 (Right to work)

1. Everyone shall have the right to work.
2. The duty to work is inseparable from the right to work, except for those persons whose capacities have been diminished by age, sickness or disability.
3. It shall be duty of the State, by implementing plans for economic and social policy, to safeguard the right to work, ensuring:
  - a. The implementation of full employment policies;
  - b. Equality of opportunity in the choice of occupation or type of work and conditions preventing access to any post, work or professional category being prohibited or restricted by reason of a person's sex.
  - c. Cultural, technical and vocational training for workers.

Article 59 (Rights of workers)

1. All workers, regardless of their age, sex, race, nationality, land of origin, religion and political or ideological convictions, shall be entitled to:
  - a. Remuneration for their work according to its quantity, nature and quality, on the principle of equal pay for equal work, so as to secure to them an appropriate livelihood;
  - b. The organisation of work in conditions making for dignity so as to permit personal self-fulfilment;
  - c. Safe and healthy working conditions;
  - d. Rest and recreation, a limit to the length of the working day, a weekly rest day and holidays with pay;

- e. Material assistance when they are involuntarily unemployed.
  - f. Assistance and fair compensation for victims of accidents at work or of vocational disease
2. It shall be the duty of State to secure the conditions of work, remuneration and rest to which workers are entitled, in particular by:
- a. Fixing and keeping up to date a national minimum wage and maximum wage, having regard among other factors to workers' needs, the increase in the cost of living, the degree of development of the forces of production, economic and financial stability and the formation of capital for development;
  - b. Setting limits on the length of working time at the national level;
  - c. Special protection at work for women during pregnancy and after childbirth, for minors, for disabled persons and for those engaged in activities requiring particular effort or working in unhealthy, poisonous or dangerous conditions;
  - d. Systematic development of a network of rest and holiday centres, in co-operation with welfare organisations;
  - e. Protecting the working conditions and safeguarding social benefits of emigrant workers.
  - f. Protecting the working conditions of student workers

#### Article 60 (Consumers rights)

- 1. Consumers shall have the right to goods and services of good quality, to training and information, to the protection of their health, safety and economic interests, as well as to compensation for damages.
- 2. Advertising shall be regulated by law; all forms of hidden, indirect or fraudulent advertising shall be prohibited.
- 3. Consumer associations and consumer co-operatives shall be entitled, in accordance with the law, to the support of the State and to being heard on the questions concerning consumer protection.

#### Article 61 (Private enterprise, co-operatives and industrial self-management)

- 1. Private economic enterprise shall be freely exercised, within the framework set out in the Constitution and in the law, and with due account to the general interest.
- 2. Everyone shall be recognized the right to freely set up co-operatives, as long as the co-operative principles are observed.
- 3. Co-operatives shall freely carry on their activities and may join in unions, federations and confederations.
- 4. The right to industrial self-management shall be recognized in accordance with the law.

## **Social rights and duties**

### Article 63 ( Social security)

1. Everyone shall be entitled to social security.
2. It shall be the duty of the State to organise, coordinate and subsidise a unified and decentralised social security system, with the participation of the trade union associations, other organisations representing the workers and associations representing the other beneficiaries.
3. The right to set up private and non-profit-making institutions of social solidarity that pursue the social security objectives laid out in this Article, in Article 67 (2) (b), in Article 65, in Article 70 (1) (d) and in Articles 71 and 72, shall be recognised; they shall be regulated in the law and subject to State supervision.
4. The social security system shall protect citizens in sickness, old age, disability, widowhood, orphanhood, unemployment and all other situations in which the means of subsistence or capacity to work are lost or reduced.
5. All the periods of time spent working regardless of the sectors of activity where the work was performed, shall be taken into account for the purposes of calculating the amount of old - age and disability pensions, in accordance with the law.

### Article 64 (Health)

1. Everyone shall have the right to protection of his or her health and the duty to defend and foster it.
2. The right to health protection shall be met by:
  - a. A universal and general national health service that, taking into account the economic and social conditions of the citizens, shall tend to be free of charge;
  - b. The creation of economic, social and cultural conditions securing the protection of children, the young and the old; the systematic improvement of living and working conditions; the promotion of physical fitness and sports in school and among the people; the development of the people's sanitary education.
3. In order to secure the right to health protection, the State shall have prime duty to:
  - a. Secure the access of all citizens, regardless of their economic condition, to preventive as well as curative and rehabilitation medical care;
  - b. Secure a rational and efficient medical and hospital coverage of the whole country;
  - c. Direct its action towards the socialisation of the costs of medical and medico-pharmaceutical care;

- d. Control and supervise medicine practised in partnership and privately, co-ordinating it with the national health service;
  - e. Control and supervise the production, marketing and use of chemical, biological and pharmaceutical products and other means of treatment and diagnosis.
4. The national health service shall have a decentralised management in which the beneficiaries take part.

#### Article 65

1. Everyone has the right, both personally and for his or her family, to a dwelling of adequate size, that meets satisfactory standards of hygiene and preserves personal and family privacy.
2. In order to ensure the right to housing, it is the duty of the State to:
- a. Draw up and implement a policy for housing as a part of general national planning and to support plans for urban areas that guarantee an adequate network of transport and social facilities;
  - b. To promote, in conjunction with local authorities, the construction of economic and social housing;
  - c. Promote private building, when in the public interest, and access to privately owned or rented dwellings.
  - d. Encourage and support the initiatives of local communities for the resolution of their housing problems and for promoting the establishment of housing co-operatives and their own building projects;
3. The State shall adopt a policy for the institution of a system of rents that are compatible with family incomes and for individual ownership of housing.
4. The State, the autonomous regions and the local authorities shall determine the regulations on occupancy, use and transformation of urban land, specifically by way of planning instruments, within the framework of laws relating to national planning and urban planning and shall compulsorily acquire such land as is necessary to satisfy the purposes of urban public utility.
5. Interested parties shall be guaranteed participation in the drawing up of urban planning instruments and any other instruments for physical planning of the territory.

#### Article 67

1. The family, as a basic component of society, has the right to protection by community and the State and to the creation of all the conditions that permit the personal fulfilment of its members.

2. The State has the duty of protecting the family, in particular by:

- a. Promoting the social and economic independence of family units;
- b. Promoting the establishment of, and guaranteeing access to, a national network of day-care centres and other social facilities for family support, and a policy for the aged;
- c. Working together with parents in the education of their children;
- d. Guaranteeing, with respect to individual liberty, the right to family planning, promoting information and access to the respective methods and means, and making the legal and technical arrangements that enable fatherhood and motherhood to be planned;
- e. Regulating assisted procreation, in such terms as safeguard human dignity;
- f. Adjusting taxes and security benefits to reflect family responsibilities;
- g. Determining, after consultation with associations representing families, and implementing an overall and integrated policy for the family.

#### Article 68 (Fatherhood and motherhood)

1. In carrying out their irreplaceable action with regard to their children, notably as concerns the education of the latter, fathers and mothers shall be entitled to protection by society and the State, with safeguards for their occupational self-fulfilment and their participation in the country's civic life.

2. Motherhood and fatherhood are eminent social values.

3. When pregnant and after having given birth, women at work shall be entitled to special protection, including entitlement to leave from work without loss of remuneration and any privileges.

4. The law shall regulate the allocation of an adequate period of leave from work to mothers and fathers, in accordance with the interests of the child and the needs of the family unit.

#### Article 69 (Childhood)

1. Children shall have the right to the protection of society and the State with a view to their full development.

2. Children, particularly orphans and abandoned children, shall be entitled to special protection by society and the State against any form of discrimination and oppression and against abuses of authority in the family and other institutions.

3. Access to work shall be forbidden, in accordance with the law, to school-age minor children.

### Article 70 (Youth)

1. Young people, especially young people at work, shall receive special protection for the purpose of effective enjoyment of their economic, social and cultural rights, notably with respect to:

- a. Education, vocational training and culture;
- b. Access to a first job, work and social security;
- c. Physical education and sports;
- d. The use of leisure time

2. The prime objectives of youth policy shall be to develop in young people their character, a liking for unfettered creation and a sense of service to the community, as well as to create the prerequisites leading to their effective integration in active life.

3. In conjunction with the families, schools, businesses, neighbourhood organisations, cultural associations and trusts, recreational and cultural groups, the State shall promote and assist the youth organisations in pursuing the above-mentioned objectives, as well as the international exchanges of young people.

### Article 71 (Disabled persons)

1. Citizens who are physically or mentally disabled shall enjoy all the rights and be subject to all the duties embodied in the Constitution, except for the exercise or performance of those for which their disablement unfits them.

2. The State shall carry out a national policy for prevention and for the treatment, rehabilitation and integration of handicapped persons, shall develop a form of education to make society aware of its duties of respect for them and solidarity with them and ensure that they enjoy their rights fully, without prejudice to the rights and duties of their parents or guardians.

3. The State shall assist the disabled persons' associations.

### Article 72 (Old age)

1. Old people shall have the right to economic security and to conditions of housing and of family and community life that prevent and overcome their isolation and marginal position in society.

2. The policy for the old shall also comprise economic, social and cultural measures that tend to provide old people with opportunities for personal self-fulfilment through active participation in community life

### Article 73

The State shall promote the democratisation of education and the other conditions that enable education, both at school and elsewhere, to contribute to equality of opportunity, to surmounting economic, social and cultural inequality, to the development of the personality and the spirit of tolerance, mutual understanding, solidarity and responsibility, to social progress and to democratic participation in public life.

### Article 74 (Education)

1. Everyone shall have the right to education with safeguard of the right to equal opportunities of access to and success in schooling.

2. Education shall contribute to overcome economic, social and cultural imbalances, to enable citizens to participate on a democratic basis in a free society and to promote mutual understanding, tolerance and a spirit of solidarity.

3. In the implementation of its educational policy it shall be the duty of the State to:

- a. Ensure compulsory and free universal basic education;
  - b. Institute a public system of pre-school education;
  - c. Ensure permanent education and abolish illiteracy;
  - d. Secure to all citizens, in accordance with their ability, access to the highest levels of education, scientific research and artistic creation;
  - e. Institute by stages free education at all levels;
  - f. Insert the schools in the communities they serve and co-ordinate education with economic, social and cultural activities;
  - g. Promote and support special education for the handicapped;
  - h. Secure for emigrants' children the teaching of the Portuguese language and access to Portuguese culture.
  - i. To ensure instruction in the Portuguese language and access to Portuguese culture the children of emigrants.
  - j. To ensure that the children of immigrants have adequate support to implement their right to education
4. Access to work shall be forbidden, in accordance with the law, to school-age minor children.

## Article 76

1. The rules governing access to universities and other institutions of higher education shall guarantee equal opportunities for all and the democratisation of the system of education; they shall take into account the need for qualified graduates and the enhancement of the educational, cultural and scientific standards of the country.

2. Universities shall be autonomous in the making of their regulations and shall enjoy scientific, educational, administrative and financial autonomy, in accordance with the law, without prejudice to appropriate assessment of the quality of education.

## Article 80 (Fundamental principles)

The social and economic organisation shall be based on the following principles:

- a. Subordination of economic power to democratic political power;
- b. Co-existence of the public, the private and the cooperative and social sectors with respect to the ownership of the means of production;
- c. Collective ownership of means of production and land as required by the public interest; collective ownership of the natural resources;
- d. Democratic planning of the economy;
- e. Protection of the co-operative and social sector with respect to the ownership of the means of production;
- f. Democratic intervention of the workers.
- g. Participation of workers' representative organisations and organisations representing economic activity in the definition of the principal economic and social measures.

## Article 81 (Prime duties of the State)

In the economic and social sphere the prime duties of the State shall be:

- a. To promote an increase in the social and economic well-being and the quality of life of the people, especially the most underprivileged classes;
- b. To undertake the necessary corrections with respect to imbalances in the distribution of wealth and income;
- c. To ensure that the productive forces shall be fully used, particularly by watching over the efficiency of the public sector;
- d. To guide the economic and social development towards balanced growth of all sectors and regions and to progressively eliminate the economic and social differences between town and country



- e. To abolish private monopolies and to prevent their being created, as well as to suppress abuses of economic power and all practices that are harmful to the common interest;
- f. To ensure that there shall be fair competition in business;
- g. To develop economic relations with all peoples whilst always safeguarding national independence and the interests of the Portuguese and of the country's economy;
- h. To suppress the very large estates and reorganize the very small farms;
- i. To ensure that the organisations representing the workers and the organisations representing economic activities shall participate in determining, implementing and controlling the main economic and social measures;
- j. To protect the consumers;
- l. To set up the legal and technical structures that are necessary for introducing a system of democratic economic planning;
- m. To draw up a scientific and technological policy that shall further the country's development;
- n. To adopt a national energies policy that is inkeeping with the conservation of natural resources and ecological balances, whilst promoting international co-operation in this field.

#### Article 86

- 1. The State shall encourage business activity, particularly small and medium sized businesses and shall supervise the fulfilment of the respective legal obligations, in particular those of businesses that pursue activities of general economic interest.
- 2. The State may involve itself with the management of private businesses only temporarily where the law expressly authorises and, as a general rule, following a judicial decision.
- 3. The law may determine the basic sectors in which activity by private businesses and other entities of a similar nature is forbidden.

#### Article 90 ( Workers participation in management )

Effective participation of workers in the management of the production units of the public sector shall be safeguarded.

#### Article 109

Direct and active participation by men and women in political life is a requirement of, and a basic instrument for consolidating the democratic system. The law must promote equality in the exercise of civil and political rights and non-discrimination on the basis of gender for access to political positions.

Article 230 (Limits to powers)

The autonomous regions shall not:

- a. Restrict the rights of workers as recognised by law,
- b. Impose restrictions on the passage of persons and goods between them and the rest of the national territory, except restrictions on goods dictated by health requirements;
- c. Restrict any occupation or public office to persons born or resident in the region.

## CONSTITUTION OF SPAIN

(Official text published in the *Bolton*

*Oficial del Eslado* of December 29, 1978)

### PREAMBLE

The Spanish Nation, desiring to establish justice, liberty and security, and to promote the wellbeing of all its members, in the exercise of its sovereignty proclaims its will to:

Guarantee democratic coexistence within the Constitution and the laws in accordance with a just economic and social order.

Consolidate a state of law, which insures the rule of law as the expression of the popular will.

Protect all Spaniards and peoples of Spain in the exercise of human rights, their cultures and traditions, languages and institutions.

Promote the progress of culture and the economy to insure a dignified quality of life for all.

Establish an advanced democratic society and,

Collaborate in the strengthening of peaceful relations and effective cooperation among all the peoples of the earth.

Therefore, the Cortes approve, and the Spanish people ratify the following

## CONSTITUTION

### PRELIMINARY TITLE

#### Article 1

1. Spain constitutes itself into a social and democratic state of law, which advocates liberty, justice, equality and political pluralism as the superior values of its juridical order.
2. National sovereignty resides in the Spanish people from whom emanate the powers of the state.
3. The political form of the Spanish State is the parliamentary Monarchy.

#### Article 7

Syndicates of workers and associations of employers contribute to the defence and promotion of their own economic and social interests. Their creation and the exercise of their activity are free within the observance of the Constitution and the law. Their internal structure and functioning must be democratic.

### Article 9

1. The citizens and public powers are subject to the Constitution and the juridical order.
2. It is the responsibility of the public powers to promote conditions so that liberty and equality of the individual and the groups he joins will be real and effective; to remove those obstacles which impede or make difficult their full implementation, and to facilitate participation of all citizens in the political, economic, cultural and social life.

### Article 13

1. Aliens in Spain may enjoy the public freedoms guaranteed by the present Title under the terms which treaties or laws may establish.
2. Only Spaniards shall have the rights recognized in Article 23 except that which in keeping with the criteria of reciprocity may be established by treaty or law for the right to active suffrage in municipal elections.
3. Extradition will only be granted in compliance with a treaty or the law in keeping with the principle of reciprocity. Excluded from extradition are political crimes, acts of terrorism not being considered as such.
- 4 The law shall establish the terms under which citizens of other countries and stateless persons may enjoy the right of asylum in Spain.

### Article 14

Spaniards are equal before the law, without any discrimination for reasons of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.

### Article 22

1. The right of association is recognized.
2. Associations, which pursue purposes or use methods, which are classified as crimes, are illegal.
3. Associations constituted under the provisions of this article must register for purposes of public information only.
4. Associations may only be dissolved or their activities suspended by virtue of a motivated judicial order.
5. Secret and paramilitary associations are prohibited.

### Article 25

1. No one may be convicted or sentenced for actions or omissions which when committed did not constitute a crime, misdemeanour or administrative infringement as established by legislation in force at that moment.

2. Prison sentences and security measures shall be oriented toward reeducation and social rehabilitation and may not consist of forced labor. The person sentenced to prison shall enjoy during his imprisonment the fundamental rights contained in this chapter, with the exception of those, which are expressly restricted by the content of the prison sentence, the purpose of the sentence, and the penitentiary law. In any case, he shall have the right to remunerated work and the pertinent benefits of Social Security as well as access to culture and the integral development of his personality.

#### Article 27

(1) Everyone has the right to education. Freedom of instruction is recognized.

(2) The objective of education shall be the full development of the human personality in respect for the democratic principles of coexistence and the basic rights and liberties.

(3) The public authorities guarantee the right which will assist parents to have their children receive the religious and moral formation which is in keeping with their own convictions.

(4) Basic education is obligatory and free.

(5) The public authorities guarantee the right of all to education through a general educational program, with the effective participation of all the sectors affected, and the creation of educational centers.

(6) The freedom of physical and legal persons to create educational centers which respect constitutional principles, is recognized.

(7) Teachers, parents, and in some cases, the students, shall participate in the control and management of all centers maintained by the Administration with public funds, under the terms established by law. (8) The public authorities shall inspect and standardize the educational system so as to guarantee compliance with the laws.

(9) The public authorities shall help the teaching centers which meet the requirements established by law. (10) The autonomy of universities is recognized under the terms established by law.

#### Article 28

1. All have the right to unionize freely. The law may limit or except from the exercise of this right the Armed Forces or Military Institutes, or the other Corps subject to military discipline and shall regulate the peculiarities of its exercise for political functionaries. Syndical liberty includes the right to found unions and to join the union of one's choice, as well as the right of the unions to form confederations, to found international union organizations or to join them. No one may be forced to join a union.

2. The right of workers to strike in defence of their interests is recognized. The law which regulates the exercise of this right shall establish precise guarantees to insure the maintenance of essential services of the community.

### Article 32

(1) Man and woman have the right to contract matrimony with full legal equality. (2) The law shall regulate the forms of matrimony, the age and capacity for concluding it, the rights and duties of the spouses, causes for separation and dissolution and their effects.

### Article 35

1. All Spaniards have the duty to work and the right to work, to the free selection of profession or office career, to advancement through work and to a sufficient remuneration to satisfy their needs and those of their family, while in no case can there be discrimination for reasons of sex.

2. The law shall regulate a statute for workers.

### Article 36

The law shall regulate the peculiarities of the legal governance of the Professional Colleges and the exercise of professions requiring academic degrees. The internal structure and functioning of the Colleges must be democratic.

### Article 37

1. The law shall guarantee the right to collective labor negotiations between representatives of workers and employers, as well as the binding force of agreements.

2. The right of the workers and employers to adopt measures concerning collective conflict is recognized. The law, which shall regulate the exercise of this right, without prejudice to the limitations it may establish, shall include precise guarantees to insure the functioning of the essential services of the community.

## **CHAPTER III On the Guiding Principles of Economic and Social Policy**

### Article 38

Free enterprise within the framework of a market economy is recognized. The public authorities guarantee and protect its exercise and the defense of productivity in accordance with the demands of the general economy, and as the case may be, in keeping with planning.

### Article 39

1. The public authorities shall assure the social, the economic and juridical protection of the family.

2. The public authorities shall assure the complete protection of children, who are equal before the law regardless of their parentage and regardless of the marital status of their mothers. The law shall make it possible to investigate paternity.

3. Parents must provide their children, born in or out of wedlock, with assistance of every kind during the time they are minors and in other cases where it is legally proper.

4. Children shall enjoy the protection provided in international agreements, which safeguard their rights.

#### Article 40

1. The public authorities shall promote favorable conditions for social and economic progress and for a more equitable distribution of regional and personal income within the framework of a policy of economic stability. Special emphasis will be placed on the realization of a policy aimed at full employment.

2. Likewise, the public authorities shall promote a policy which guarantees professional training and readaptation, insure work safety and hygiene, and guarantee necessary rest through limitations on the length of the work day, paid periodic vacations and the promotion of suitable centers

#### Article 41

The public authorities shall maintain a public system of social security for all citizens, which will guarantee social assistance, and services, which are sufficient in cases of need, especially in cases of unemployment. Complementary assistance and services shall be free.

#### Article 42

The state shall especially try to safeguard the economic and social rights of Spanish workers abroad and will orient its policy toward their return.

#### Article 44

1. The public authorities shall promote and watch over access to culture, to which all have a right.

2. The public authorities shall promote science and scientific and technical research for the benefit of the general interest.

#### Article 45

1. Everyone has the right to enjoy an environment suitable for the development of the person as well as the duty to preserve it.

2. The public authorities shall concern themselves with the rational use of all natural resources for the purpose of protecting and improving the quality of life and protecting and restoring the environment, supporting themselves on an indispensable collective solidarity.

3. For those who violate the provisions of the foregoing paragraph, penal or administrative sanctions, as applicable, shall be established and they shall be obliged to repair the damage caused.

#### Article 46

The public authorities shall guarantee the preservation, and promote the enrichment, of the historical, cultural and artistic patrimony of the peoples of Spain and the property that make them up, regardless of their juridical status and their ownership. The penal law shall punish any offences against this patrimony.

#### Article 47

All Spaniards have the right to enjoy decent and adequate housing. The public authorities shall promote the conditions necessary and establish the pertinent norms to make this right effective, regulating the use of land in accordance with the general interest to prevent speculation.

The Community shall share in the increased values generated by urban activities of public bodies.

#### Article 48

The public authorities shall promote the conditions for the free and effective participation by the young in political, social, economic and cultural development.

#### Article 49

The public authorities shall implement a policy of prevention, treatment, rehabilitation and integration of those who are physically, sensorially and mentally handicapped, who shall be given the special attention which they require and afford them special protection for the enjoyment of the rights which this Title grants to all citizens

#### Article 50

To citizens in old age, the public authorities shall guarantee economic sufficiency through adequate and periodically updated pensions. Likewise, and independently of the family obligations, they shall promote their welfare through a system of social services, which shall take care of their specific problems of health, housing, culture.

#### Article 51

1. The public authorities shall guarantee the defence of the consumers and users, protecting their safety, health and legitimate economic interests through effective procedures.
2. The public authorities shall promote the information and education of consumers and users, foster their organizations and hear them in those questions, which could affect them under the terms, which the law shall establish.
3. Within the framework of the provisions of the foregoing paragraphs, the law shall regulate domestic commerce and the system of licensing commercial products.



Article 52

The law shall regulate the professional organizations which contribute to the defence of their own economic interests. Their internal structure and functioning must be democratic.

Article 129

1. The law shall establish the forms of participation of those interested in Social Security and in the activities of the public agencies whose function directly affects the quality of life or general welfare.

2. The public authorities shall effectively promote the various forms of participation in enterprise and facilitate cooperative enterprises by means of appropriate legislation. They shall also establish the means that will facilitate access by the workers to ownership of the means of production.

Article 139

1. All Spaniards have the same rights and obligations in any part of the territory of the State.

2. No authority may adopt measures, which directly or indirectly hinder the freedom of movement and establishment of persons and the free movement of goods.

## CONSTITUTION OF SWEDEN

1 Jan 1975

### **Chapter I. The basic principles of the Constitution**

#### Article 2

(1) Public power shall be exercised with respect for the equal worth of all and for the freedom and dignity of the individual.

(2) The personal, economic and cultural welfare of the individual shall be fundamental aims of public activity. In particular, it shall be incumbent upon the public administration to secure the right to work, housing and education, and to promote social care and social security and a good living environment.

(3) The public administration shall promote the ideals of democracy as guidelines in all sectors of society. The public administration shall guarantee equal rights to men and women and protect the private and family lives of the individual.

(4) Opportunities should be promoted for ethnic, linguistic and religious minorities to preserve and develop a cultural and social life of their own.

#### Article 9

Courts and public authorities as well as others who carry out functions within the public administration shall in their activities observe the equality of all persons under the law and shall maintain objectivity and impartiality.

### **Chapter II. Fundamental freedoms and rights**

#### Article 1

Every citizen shall in relation to the community be guaranteed

1. the freedom of expression: the freedom to communicate information and express ideas, opinions and feelings, either orally, in writing, in pictorial representations, or in any other way,

2. the freedom of information: the freedom to obtain and receive information and otherwise to acquaint oneself with the statements of others,

3. the freedom of assembly: the freedom to arrange and to attend any meeting for the purpose of information or expression of opinions or for any other similar purpose or for the purpose of presenting artistic work,

4. the freedom of demonstration: the freedom to arrange and to participate in any demonstration on public grounds,

5. the freedom of association: the freedom to unite with others for public or private purposes,

6. the freedom of religion: the freedom to practice one's religion either alone or together with others.

With regard to the freedom of the press the provisions of the Freedom of the Press Act shall apply. In the said Act there have also been laid down provisions governing the right to have access to public documents.

### Article 12

The freedoms and rights referred to in Article 1 subparagraphs 1-5, in Articles 6 and 8 and in the second paragraph of Article 11 may, to the extent provided for in Articles 13-16, be restricted by law, or by a decree issued upon an authorization given by law in pursuance of sub-paragraph 7 of the first paragraph of Article 7 of Chapter 8 or in pursuance of Article 10 of Chapter 8.

Such restriction as referred to in the preceding paragraph may be made only for the achievement of a purpose, which is acceptable in a democratic society. The restriction may never go beyond what is necessary with regard to the purpose which has given rise to it, neither may it be extended so far that it constitutes a threat against the free formation of opinions as one of the foundations of democracy. No restriction may be made solely on grounds of political, religious, cultural or other such ideas.

A proposition for any such Act of law as referred to in the first paragraph, or for an Act of law concerning amendment to or repeal of such Act shall, unless it is rejected by the Riksdag, on a motion by not less than ten of its members be pending for a period of not less than twelve months as from the date at which the first report of a Riksdag Committee on the proposition was submitted to the Chamber of the Riksdag. Notwithstanding the foregoing provision the Riksdag may adopt the proposition if not less than five sixths of those voting are in agreement with the decision.

The third paragraph of the present Article shall not apply to any proposition, which is to the effect that an Act of law shall continue to be in force for a period of not more than two years. Nor shall the said paragraph apply to any proposition for an Act of law, which concerns exclusively:

1. prohibitions against revealing such matters as a person has acquired knowledge of in public service, or while performing an official duty and the secrecy of which is called for in regard to such interests as referred to in Article 2 of Chapter 2 of the Freedom of the Press Act,

2 search of a person's home or similar encroachment, or

3. deprivation of liberty imposed as a penal sanction on account of a specified act or omission.

The committee on the Constitution shall decide on behalf of the Riksdag whether the third paragraph of the present Article is applicable in respect of a specified proposition for an Act of law.

#### Article 14

The freedom of assembly and the freedom of demonstration may be restricted only on account of the safety of the Realm, of public order and security at the meeting or the demonstration, or of the traffic, or for the purpose of counteracting an epidemic.

The freedom of association may be restricted only as regards such associations the activities of which are of a military or similar nature or which involve the persecution of a national group of a particular race, of a particular skin colour, or of a particular ethnic origin.

#### Article 15

No law or other decree may imply the discrimination of any citizen on the grounds of his belonging to a minority on account of his race, skin colour, or ethnical origin.

#### Article 16

No law or other decree may imply the discrimination of any citizen on account of his sex, unless the relevant provision forms part of efforts to bring about equality between men and women or concerns compulsory military service or any corresponding compulsory national service.

#### Article 17

Any trade union and any employer or any association of employers shall have the right to take strike or lock-out actions or any similar measures, except as otherwise provided by law or ensuing from an agreement.

#### Article 20

Any foreigner within the Realm shall be on equality with a Swedish citizen with regard to

1. protection against any compulsion to participate in meetings for the purpose of the formation of opinions or in a demonstration or other expression of opinions, or to belong to a religious community or other association (Article 2, second sentence),
2. protection against capital punishment, corporal punishment and torture as well as against medical influence or encroachment for the purpose of extorting or preventing statements (Articles 4 and 5).
3. the right to the trial by a court of any deprivation of liberty on account of a criminal act or a suspicion of such act (Article 9 first and third paragraphs),
4. protection against retroactive penal sanctions and other retroactive effects of criminal acts as well as retroactive taxes, charges or fees (Article 10),
5. the protection against the institution of a court for a particular case (Article 11, first paragraph),

6. protection against discrimination on account of race, skin colour, or ethnical origin, or on account of sex (Articles 15 and 16),
7. the right to take strike or lock-out actions (Article 17),
8. the right to compensation in cases of expropriation or other such disposition (Article 18).

Unless otherwise provided by special rules of law, any foreigner within the Realm shall be on equality with a Swedish citizen also with regard to:

1. the freedom of expression, the freedom of information, the freedom of assembly, the freedom of demonstration, the freedom of association, and the freedom of religion (Article 1),
2. the protection against any compulsion to make known his opinions (Article 2, first sentence).
3. the protection against bodily encroachment also in cases other than those referred to in Articles 4 and 5, against bodily search, search of his home, or similar encroachment. as well as against encroachments on confidential communications (Article 6),
4. the protection against deprivation of liberty (Article 8, first sentence),
5. the fight to trial by a court of any deprivation of liberty for reasons other than a criminal act or suspicion of such act (Article 9, second and third paragraphs),
6. the publicity of court proceedings (Article 11, second paragraph).
7. protection against any encroachment on grounds of opinions (Article 12, second paragraph, third sentence),
8. the rights of authors, artists, and photographers to their work (Article 19).

With respect to such special provisions as referred to in the second paragraph of the present Article the provisions of the third paragraph, the first sentence of the fourth paragraph and the fifth paragraph of Article 12 shall apply.



## **Part VII**

### **Constitutions of the EU candidate countries**

- Bulgaria
- Cyprus
- Czech Republic
- Estonia
- Hungary
- Latvia
- Lithuania
- Malta
- Poland
- Romania
- Slovak Republic
- Slovenia
- Turkey





## **CONSTITUTION OF THE REPUBLIC OF BULGARIA**

12 July 1991

We, the Members of the Seventh Grand National Assembly, guided by our desire to express the will of the people of Bulgaria,

by pledging our loyalty to the universal human values of liberty, peace, humanism, equality, justice and tolerance;

by elevating as the uppermost principle the rights, dignity and security of the individual;

in awareness of our irrevocable duty to guard the national and state integrity of Bulgaria,

hereby promulgate our resolve to create a democratic, law-governed and social state, by establishing this Constitution.

### **Chapter one: Fundamental principles**

#### Article 6

1. All persons are born free and equal in dignity and rights.
2. All citizens shall be equal before the law. There shall be no privileges or restriction of rights on the grounds of race, nationality, ethnic self-identity, sex, origin, religion, education, opinion, political affiliation, personal or social status or property status.

#### Article 12

1. The associations of citizens shall serve to meet and safeguard their interests.
2. Citizens' associations, including the trade unions, shall not pursue any political objectives, nor shall they engage in any political activity, which is in the domain of the political parties.

#### Article 14

The family, motherhood and childhood shall enjoy the protection of the state and society.

#### Article 16

Labour shall be guaranteed and protected by law.

#### Article 19

1. The economy of the Republic of Bulgaria shall be based on free economic initiative.
2. The state shall establish and guarantee equal legal conditions for economic activity to all citizens and corporate entities by preventing any abuse of a monopoly status and unfair competition, and by protecting the consumer.

3. All investments and economic activity by Bulgarian and foreign persons and corporate entities shall enjoy the protection of the law.

4. The law shall establish conditions conducive to the setting up of co-operatives and other forms of association of citizens and corporate entities in the pursuit of economic and social prosperity.

#### Article 22

1. No foreign physical person or foreign legal entity shall acquire ownership over land, except through legal inheritance. Ownership thus acquired shall be duly transferred.

2. A foreign physical person or foreign legal entity shall be free to acquire user rights, building rights and other real rights on terms established by a law.

### **Chapter two: Fundamental rights and obligations of citizens**

#### Article 26

1. Irrespective of where they are, all citizens of the Republic of Bulgaria shall be vested with all rights and obligations proceeding from this Constitution.

2. Foreigners residing in the Republic of Bulgaria shall be vested with all rights and obligations proceeding from this Constitution, except those rights and obligations for which a Bulgarian citizenship is required by this Constitution or by another law

#### Article 33

(1) The home is inviolable. No one shall enter or stay inside a home without its occupant's consent, except in the cases expressly stipulated by law.

(2) Entering a home or staying inside without the consent of its occupant or without the judicial authorities' permission shall be allowed only for the purposes of preventing an immediately impending crime or a crime in progress, for the capture of a criminal, or in extreme necessity.

#### Article 35

1. Everyone shall be free to choose a place of residence and shall have the right to freedom of movement on the territory of the country and to leave the country. This right shall be restricted only by virtue of a law in the name of national security, public health, and the rights and freedoms of other citizens.

2. Every Bulgarian citizen shall have the right to return to the country.

#### Article 44

1. Citizens shall be free to associate.

2. No organisation shall act to the detriment of the country's sovereignty and national integrity, or the unity of the nation, nor shall it incite racial, national, ethnic or religious enmity or an encroachment on the rights and freedoms of citizens; no organisation shall establish clandestine or paramilitary structures or shall seek to attain its aims through violence.

3. The law shall establish which organisations shall be subject to registration, the procedure for their termination, and their relationships with the state.

#### Article 46

1. Matrimony shall be a free union between a man and a woman. Only a civil marriage shall be legal.

2. Spouses shall have equal rights and obligations in matrimony and the family.

3. The form of a marriage, the conditions and procedure for its conclusion and termination, and all private and material relations between the spouses shall be established by a law.

#### Article 47

1. The raising and upbringing of children until they come of legal age shall be a right and obligation of their parents and shall be assisted by the state.

2. Mothers shall be the object of special protection on the part of the state and shall be guaranteed prenatal and postnatal leave, free obstetric care, alleviated working conditions and other social assistance.

3. Children born out of wedlock shall enjoy equal rights with those born in wedlock.

4. Abandoned children shall enjoy the protection of the state and society.

5. The conditions and procedure for the restriction or suspension of parental rights shall be established by a law.

#### Article 48

1. Citizens shall have the right to work. The state shall take care to provide conditions for the exercising of this right.

2. The state shall create conditions conducive to the exercise of the right to work by the physically or mentally handicapped.

3. Everyone shall be free to choose an occupation and place of work.

4. No one shall be compelled to do forced labour.

5. Workers and employees shall be entitled to healthy and non-hazardous working conditions, to guaranteed minimum pay and remuneration for the actual work performed, and to rest and leave, in accordance with conditions and procedures established by a law.

#### Article 49

1. Workers and employees shall be free to form trade union organisations and alliances in defence of their interests related to work and social security.
2. Employers shall be free to associate in defence of their economic interests

#### Article 50

1. Workers and employees shall have the right to strike in defence of their collective economic and social interests. This right shall be exercised in accordance with conditions and procedures established by a law.

#### Article 51

1. Citizens shall have the right to social security and welfare aid.
2. The state shall provide social security for the temporarily unemployed in accordance with conditions and procedures established by a law.
3. The aged without relatives and unable to support themselves, as well as the physically and mentally handicapped shall enjoy the special protection of the state and society.

#### Article 52

1. Citizens shall have the right to medical insurance guaranteeing them affordable medical care, and to free medical care, and to free medical care in accordance with conditions and procedures established by a law.
2. Citizens' medical care shall be financed from the state budget, by employers, through private and collective health-insurance schemes, and from other sources in accordance with conditions and procedures established by a law.
3. The state shall protect the health of citizens and shall promote the development of sports and tourism.
4. No one shall be subjected to forcible medical treatment or sanitary measures except in circumstances established by a law.
5. The state shall exercise control over all medical facilities and over the production and trade in pharmaceuticals, biologically active substances and medical equipment.

#### Article 53

- (1) Everyone shall have the right to education.
- (2) School attendance up to the age of 16 is compulsory.
- (3) Primary and secondary education in state and municipal schools is free. In circumstances established by law, the higher educational establishments shall provide education free of charge.

- (4) Higher educational establishments shall enjoy academic autonomy.
- (5) Citizens and organizations shall be free to found schools in accordance with conditions and procedures established by law. The education they provide shall fit the requirements of the state.
- (6) The state shall promote education by opening and financing schools, by supporting capable school and university students, and by providing opportunities for occupational training and retraining. It shall exercise control over all kinds and levels of schooling.

## CONSTITUTION OF CYPRUS

16 Aug 1960

### Part 2 Fundamental Rights and Liberties

#### Article 6 - No Discrimination of Communities

Subject to the express provisions of this Constitution no law or decision of the House of Representatives or of any of the Communal Chambers, and no act or decision of any organ, authority or person in the Republic exercising executive power or administrative functions, shall discriminate against any of the two Communities or any person as a person or by virtue of being a member of a Community.

#### Article 9 - Social Security

Every person has the right to a decent existence and to social security. A law shall provide for the protection of the workers, assistance to the poor and for a system of social insurance.

#### Article 10 – No Slavery, Servitude, Forced Labor

1. No person shall be held in slavery or servitude.
2. No person shall be required to perform forced or compulsory labour.
3. For the purposes of this Article the term "forced or compulsory labour" shall not include -
  - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 11 or during conditional release from such detention;
  - (b) any service of a military character if imposed or, in case of conscientious objectors, subject to their recognition by a law, service exacted instead of compulsory military service;
  - (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the inhabitants.

#### Article 18 - Thought, Conscience, Religion

1. Every person has the right to freedom of thought, conscience and religion.
2. All religions whose doctrines or rites are not secret are free.
3. All religions are equal before the law. Without prejudice to the competence of the Communal Chambers under this Constitution, no legislative, executive or administrative act of the Republic shall discriminate against any religious institution or religion.
4. Every person is free and has the right to profess his faith and to manifest his religion or belief, in worship, teaching, practice or observance, either individually or collectively, in private or in public, and to change his religion or belief.

5. The use of physical or moral compulsion for the purpose of making a person change or preventing him from changing his religion is prohibited.

6. Freedom to manifest one's religion or belief shall be subject only to such limitations as are prescribed by law and are necessary in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person.

7. Until a person attains the age of sixteen the decision as to the religion to be professed by him shall be taken by the person having the lawful guardianship of such person.

8. No person shall be compelled to pay any tax or duty the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.

#### Article 20 – Education

1. Every person has the right to receive, and every person or institution has the right to give, instruction or education subject to such formalities, conditions or restrictions as are in accordance with the relevant communal law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or the standard and quality of education or for the protection of the rights and liberties of others including the right of the parents to secure for their children such education as is in conformity with their religious convictions.

2. Free primary education shall be made available by the Greek and the Turkish Communal Chambers in the respective communal primary schools.

3. Primary education shall be compulsory for all citizens of such school age as may be determined by a relevant communal law.

4. Education, other than primary education, shall be made available by the Greek and the Turkish Communal Chambers, in deserving and appropriate cases, on such terms and conditions as may be determined by a relevant communal law.

#### Article 21 - Assembly, Association

1. Every person has the right to freedom of peaceful assembly.

2. Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. Notwithstanding any restriction under paragraph 3 of this Article, no person shall be compelled to join any association or to continue to be a member thereof.

3. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are absolutely necessary only in the 'interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person, whether or not such person participates in such assembly or is a member of such association.

4. Any association the object or activities of which are contrary to the constitutional order is prohibited.

5. A law may provide for the imposition of restrictions on the exercise of these rights by members of the armed forces, the police or gendarmerie.

6. Subject to the provisions of any law regulating the establishment or incorporation, membership (including rights and obligations of members), management and administration, and winding up and dissolution, the provisions of this Article shall also apply to the formation of companies, societies and other associations functioning for profit.

#### Article 25 - Profession, Work

1. Every person has the right to practice any profession or to carry on any occupation, trade or business.

2. The exercise of this right may be subject to such formalities, conditions or restrictions as are prescribed by law and relate exclusively to the qualifications usually required for the exercise of any profession or are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person or in the public interest:

Provided that no such formalities, conditions or restrictions purporting to be in the public interest shall be prescribed by a law if such formality, condition or restriction is contrary to the interests of either Community.

3. As an exception to the aforesaid provisions of this Article a law may provide, if it is in the public interest, that certain enterprises of the nature of an essential public service or

relating to the exploitation of sources of energy or other natural resources shall be carried out exclusively by the Republic or a municipal corporation or by a public corporate body created for the purpose by such law and administered under the control of the Republic, and having a capital which may be derived from public and private funds or from either such source only:

Provided that, where such enterprise has been carried out by any person, other than a municipal corporation or a public corporate body, the installations used for such enterprise shall, at the request of such person, be acquired, on payment of a just price, by the Republic or such municipal corporation or such public corporate body, as the case may be.

#### Article 26 – Contracts

1. Every person has the right to enter freely into any contract subject to such conditions, limitations or restrictions as are laid down by the general principles of the law of contract. A law shall provide for the prevention of exploitation by persons who are commanding economic power.

2. A law may provide for collective labour contracts of obligatory fulfilment by employers and workers with adequate protection of the rights of any person, whether or not represented at the conclusion of such contract.



### Article 27 – Strike

1. The right to strike is recognised and its exercise may be regulated by law for the purposes only of safeguarding the security of the Republic or the constitutional order or the public order or the public safety or the maintenance of supplies and services essential to the life of the inhabitants or the protection of the rights and liberties guaranteed by this Constitution to any person.

2. The members of the armed forces, of the police and of the gendarmerie shall not have the right to strike. A law may extend such prohibition to the members of the public service

### Article 28 -Equality, No Discrimination

1. All persons are equal before the law, the administration and justice and are entitled to equal protection thereof and treatment thereby.

2. Every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, religion, language, sex, political

or other convictions, national or social descent, birth, colour, wealth, social class, or on any ground whatsoever, unless there is express provision to the contrary in this Constitution.

3. No citizen shall be entitled to use or enjoy any privilege of any title of nobility or of social distinction within the territorial limits of the Republic.

4. No title or nobility or other social distinction shall be conferred by or recognised in the Republic.

## CONSTITUTION OF THE CZECH REPUBLIC

16 December 1992

The Czech National Council has enacted the following Constitutional Law

### **Preamble**

We, the citizens of the Czech Republic in Bohemia, Moravia and Silesia, at the time of the renewal of the independent Czech State, true to all the sound traditions of the ancient statehood of the Crown Lands of Bohemia as well as to those of the Czechoslovak statehood, determined to build up, protect and develop the Czech Republic in the spirit of the inviolable values of human dignity and liberty, as a homeland of equal, free citizens, who are aware of their duties towards others and of their responsibility to society as a whole, as a free and democratic state, based on respect for human rights and on the principles of a civic society, as a part of the family of the democracies of Europe and of the world, determined to act together in safeguarding and developing the inherited natural and cultural, material and spiritual wealth determined to abide by all the well-proven principles of law-governed state, hereby adopt, through our freely elected representatives, the following Constitution of the Czech Republic.

### **Chapter one: Fundamental provisions**

#### Article 3

The Charter of Fundamental Rights and Freedoms shall form part of the Czech Republic's constitutional order.

#### Article 96

1. All the parties to a lawsuit shall have equal rights before the court.
2. ...

## **CONSTITUTION OF THE REPUBLIC OF ESTONIA**

28 June 1992

Unwavering in their faith and with a steadfast will to secure and develop a state; which is established on the inextinguishable right of the Estonian people to national self-determination and which was proclaimed on February 24,1918;

which is founded on liberty, justice and law;

which shall serve to protect internal and external peace and provide security for the social progress and general benefit of present and future generations;

which shall guarantee the preservation of the Estonian nation and its culture throughout the ages,

the Estonian people adopted, on the basis of Article 1 of the Constitution, which entered into force in 1938, by referendum, held on June 28,1992, the following Constitution:

### **Chapter II Fundamental rights, liberties and duties**

#### Article 9

The rights, liberties and duties of everyone and all persons, as listed in the Constitution, shall be equal for Estonian citizens as well as for citizens of foreign states and stateless persons who are sojourning in Estonia

The rights, liberties and duties listed in the Constitution shall extend to legal persons, to the extent that this is in accordance with the general aims of the legal persons, and with the nature of such rights, liberties and duties.

#### Article 10

The rights, liberties and duties enumerated in the present Chapter shall not preclude other rights, liberties or duties which arise from the spirit of the Constitution or which are in accordance therewith and are compatible with human dignity and the principles of a society based on social justice, democracy and the rule of law.

#### Article 12

All persons shall be equal before the law. No person may be discriminated against on the basis of nationality, race, colour, gender, language, origin, religion, political or other beliefs, financial or social status, or other reasons.

The incitement of national, racial, religious or political hatred, violence or discrimination shall be prohibited and punishable by law. The incitement of hatred, violence or discrimination between social strata shall equally be prohibited and punishable by law.

### Article 27

The family, being fundamental for the preservation and growth of the nation, and as the basis for society, shall be protected by the state.

Spouses shall have equal rights.

Parents shall have the right and the duty to raise and care for their children.

The protection of parents and children shall be established by law. The family shall be responsible for the care of its dependent members.

### Article 28

All persons shall have the right to health care.

Estonian citizens shall be entitled to state assistance in the case of old age, inability to work, loss of a provider, and need. The categories, extent, and conditions and procedures for assistance shall be established by law. Unless otherwise established by law, this right shall exist equally for Estonian citizens and citizens of foreign states and stateless persons who are sojourning in Estonia. The state shall encourage voluntary and local government social care. Families with many children and the disabled shall be entitled to special care by state and local authorities.

### Article 29

Every Estonian citizen shall have the right to freely choose his or her fields of activity, profession and place of work. The conditions and procedures for exercising this right may be established by law. Unless otherwise established by law this right shall exist equally for Estonian citizens and citizens of foreign states and stateless persons who are sojourning in Estonia.

No person may be compelled against his or her free will to perform work or service, except service in the Defence Forces or alternative service, work required to prevent the spread of infectious diseases, work required in the event of a natural disaster or a catastrophe, or work which by law is required of a person who has been adjudged guilty of an offence.

The state shall organise vocational education and shall assist in finding work for persons seeking employment.

Working conditions shall be under state supervision.

Employers and employees may freely join unions and associations. In order to protect their rights and legal interests, unions and associations of employees and employers may use any means, which are not prohibited by law. The conditions and procedures for exercising the right to strike shall be established by law.

Procedures for settling labour disputes shall be established by law.

### Article 31

Estonian citizens shall have the right to engage in commercial activities and to form profit-making associations and leagues. The law may establish conditions and procedures for the exercise of this right. Unless otherwise established by law, this right shall exist equally for Estonian citizens and citizens of foreign states and stateless Persons who are sojourning in Estonia.

### Article 34

All persons who are legally sojourning in Estonia shall have the right to freedom of movement and choice of residence. The right to freedom of movement may be restricted only in the cases and in accordance with procedures established by law for the protection of the rights and liberties of others, in the interest of national defence, in the event of a natural disaster or a catastrophe, or in order to prevent the spread of infectious diseases, to protect the environment, to avoid leaving a minor or mentally ill person without supervision or to guarantee the holding of criminal proceedings.

### Article 37

(1) Everyone shall have the right to an education. Education shall be compulsory for school-age children to the extent specified by law, and free of school fees in state and local government general education schools.

(2) In order to make education available, state and local governments shall maintain the necessary number of educational institutions. As determined by law, other educational institutions may be established, including private schools.

(3) Parents shall have the final decision in choosing education for their children.

(4) Everyone shall have the right to instruction in Estonian. Educational institutions established for minorities shall choose their own language of instruction.

(5) The provision of education shall be supervised by the state.

### Article 48

All persons shall have the right to form non-profit associations and leagues. Only Estonian citizens may be members of political parties.

The establishment of associations and leagues, which possess weapons or are organised in a military fashion or conduct military exercises shall require a prior permit, for which the conditions and procedures of issue shall be established by law.

Associations, leagues or political parties whose aims or activities are directed towards the violent change of the Estonian constitutional system or otherwise violate a criminal law shall be prohibited.

The termination or suspension of the activities of an association, league or political party, and its penalisation may only be invoked by a court, in cases where a law has been violated

Article 49

Everyone shall have the right to preserve his or her ethnic identity.

Article 50

Ethnic minorities shall have the right, in the interests of their national culture, to establish institutions of self-government in accordance with conditions and procedures determined by the Law on Cultural Autonomy for Ethnic Minorities.

## **CONSTITUTION OF THE REPUBLIC OF HUNGARY**

31 December 1990

In order to promote a peaceful transition to a jural state having a multi-party system, parliamentary democracy and social market economy, the National Assembly, for the period before the enactment of the new Constitution of the country. determines the text of the Constitution of Hungary as follows:

### **Chapter one: General provisions**

#### Article 4

Trade unions and other organisations for the representation of interests shall protect and represent the interests of employees, members of co-operatives and entrepreneurs.

#### Article 9

(1) The economy of Hungary is a market economy, in which public and private property shall receive equal consideration and protection under the law.

(2) The Republic of Hungary recognizes and supports the right to enterprise and the freedom of competition in the economy.

#### Article 16

The Republic of Hungary shall pay particular attention to the security of existence, instruction and education of young persons, and shall protect their interests.

#### Article 17

The Republic of Hungary shall provide for the needy through extensive welfare measures.

### **Chapter twelve: Fundamental rights and duties**

#### Article 57

1. In the Republic of Hungary everyone shall be equal before the courts and everyone shall be entitled to a fair and public trial by an independent and impartial court, established by law, in the determination of any criminal charge against him or of his rights and obligations in any lawsuit.

2. - 5. (...)

#### Article 63

1. In the Republic of Hungary under the right of association, everyone shall have the right to establish organisations for any purpose not prohibited by law, or to join such organisations.

2. No armed organisation serving a political purpose shall be established on the basis of the right of association
3. To pass an act on the right of association as well as on the economic activity, and the functioning of political parties, the vote of two-thirds of the attending National Assembly representatives shall be required.

#### Article 66

- 1 The Republic of Hungary shall ensure the equality of men and women in respect of every civil, political, economic, social and cultural right.
2. In the Republic of Hungary, mothers before and after childbirth, shall be given assistance and protection according to special provisions of law.
3. The protection of women and young persons in work shall be ensured also by special provisions of law.

#### Article 67

1. In the Republic of Hungary, every child shall have the right to enjoy protection and care, provided by his family, by the state and by society, necessary for a proper physical, mental and moral development.
2. Parents shall have the right to choose the kind of education to be given to their children.
- 3 The state-related tasks of the standing and protection of families and young people shall be listed in separate provisions of law.

#### Article 70/A

1. The Republic of Hungary shall ensure human and civil rights for everyone within its territory without discrimination of any kind, such as race, colour, sex, language, religion, creed, political or other opinion, national or social origin property, birth or other status.
2. Any prejudicial discrimination of people as described in paragraph 1 shall be punished severely by law.
3. The Republic of Hungary shall promote the attainment of the equality of rights also by measures aimed at eliminating inequalities of opportunity.

#### Article 70/B

1. In the Republic of Hungary, everyone shall have the right to work, to freedom of choice of employment and occupation.
2. All, without discrimination, shall have the right to equal pay for equal work.
3. All who work shall be entitled to an income corresponding to the quantity and quality of the work performed by him.



4. All shall have the right to rest and leisure and to regular holidays, with pay.

Article 70/C

1. Everyone shall have the right to establish an organisation with others for protecting his economic and social interests, or to join such organisations.

2. The right to strike may be exercised within the limits determined by the act regulating that right.

3. To pass an act on the right to strike, the vote of two-thirds of the attending National Assembly representatives shall be required.

Article 70/D

1. Persons living within the territory of the Republic of Hungary shall have the right to physical and mental health care of the highest possible standards.

2. The Republic of Hungary shall realise that right by organising labour safety, health institutions and medical care, by ensuring opportunities for physical exercise, as well as by protecting the artificial and natural environment.

Article 70/E

1. The citizens of the Republic of Hungary shall have the right to social security, they shall be entitled to provision necessary for subsistence in case of senior citizens, illness, disablement, widowhood, orphanhood, and unemployment owing to circumstances beyond his control.

2. The Republic of Hungary shall realise the right to provision through social insurance and the system of social institutions.

Article 70/F

(1) The Republic of Hungary guarantees the right of education to its citizens.

(2) The Republic of Hungary shall implement this right through the dissemination and general access to culture, free compulsory primary schooling, through secondary and higher education available to all persons on the basis of their ability, and furthermore through financial support for students.

## CONSTITUTION OF THE REPUBLIC OF LATVIA

15 February 1992, significantly amended in 1998

The Latvian people have adopted, through their freely elected Constituent Assembly (Satversme), the following Constitution:

### **Chapter VIII Fundamental Human Rights**

#### Article 91

All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind.

#### Article 97

Everyone residing lawfully in the territory of Latvia has the right to freely move and to choose their place of residence.

#### Article 102

Everyone has the right to form and join associations, political parties and other public organisations.

#### Article 106

Everyone has the right to freely choose their employment and workplace according to their abilities and qualifications. Forced labor is prohibited. Participation in the relief of disasters and their effects, and work pursuant to a court order shall not be deemed forced labor.

#### Article 107

Every employed person has the right to receive, for work done, commensurate remuneration which shall not be less than the minimum wage established by the State, and has the right to weekly holidays and a paid annual vacation

#### Article 108

Employed persons have the right to a collective labor agreement, and the right to strike. The State shall protect the freedom of trade unions.

#### Article 109

Everyone has the right to social security in old age, for work disability, for unemployment and in other cases as provided by law.

Article 110

The State shall protect and support marriage, the family, the rights of parents and rights of the child. The State shall provide special support to disabled children, children left without parental care or who have suffered from violence.

Article 111

The State shall protect human health and guarantee a basic level of medical assistance for everyone

Article 112

Everyone has the right to education. The State shall ensure that everyone may acquire primary and secondary education without charge. Primary education shall be compulsory.

## CONSTITUTION OF THE REPUBLIC OF LITHUANIA

25 October 1992

The Lithuanian nation:

having established the State of Lithuania many centuries ago;

having based its legal foundations on the Lithuanian Statutes and the Constitutions of the Republic of Lithuania;

having for centuries defended its freedom and independence;

having preserved its spirit, native language, writing, and customs;

embodying the inborn right of each person and the People to live and create freely in the land of their fathers and forefathers, in the independent State of Lithuania, fostering national concord in the land of Lithuania;

striving for an open, just, and harmonious civil society and law-governed State, by the will of the citizens of the reborn State of Lithuania, approves and declares this Constitution

### Chapter 2 - The individual and the State

#### Article 29

(1) All people shall be equal before the law, the court, and other State institutions and officers.

(2) A person may not have his rights restricted in any way, or be granted any privileges, on the basis of his or her sex, race, nationality, language, origin, social status, religion, convictions, or opinions

#### Article 35

(1) Citizens shall be guaranteed the right to freely form societies, political parties, and associations, provided that the aims and activities thereof do not contradict the Constitution and laws.

(2) No person may be forced to belong to any society, political party, or association.

(3) The founding and functioning of political parties and other political and public organization shall be regulated by law.

### Chapter 3 - Society and the State

#### Article 38

(1) The family shall be the basis of society and the State.

(2) Family, motherhood, fatherhood, and childhood shall be under the care and protection of the State.

(3) Marriage shall be entered into upon the free consent of man and woman.

(4) The State shall register marriages, births, and deaths. The State shall also recognize marriages registered in church.

(5) In the family, spouses shall have equal rights.

(6) The right and duty of parents is to bring up their children to be honest individuals and loyal citizens, as well as to support them until they come of age.

(7) The duty of children is to respect their parents, to care for them in old age, and to preserve their heritage.

#### Article 39

The State shall take care of families bringing up children at home, and shall render them support in the manner established by law. The law shall provide for paid maternity leave before and after childbirth, as well for favourable working conditions and other privileges. Children who are under age shall be protected by law.

#### Article 41

1) Education shall be compulsory for persons under the age of 16.

(2) Education at State and local government secondary, vocational, and higher schools shall be free of charge.

(3) Everyone shall have an equal opportunity to attain higher education according to their individual abilities. Citizens who demonstrate suitable academic progress shall be guaranteed education at establishments of higher education free of charge.

### **Chapter 4 - National economy and labour**

#### Article 46

(1) Lithuania's economy shall be based on the right to private ownership, freedom of individual economic activity, and initiative.

(2) The State shall support economic efforts and initiative which are useful to the community.

(3) The State shall regulate economic activity so that it serves the general welfare of the people.

(4) The law shall prohibit monopolization of production and the market, and shall protect freedom of fair competition.

(5) The State shall defend the interests of the consumers

#### Article 48

- (1) Every person may freely choose an occupation or business, and shall have the right to adequate, safe and healthy working conditions, adequate compensation for work, and social security in the event of unemployment.
- (2) The employment of foreigners in the Republic of Lithuania shall be regulated by law.
- (3) Forced labor shall be prohibited.
- (4) Military service or alternative service, as well as labor which is executed during war, natural calamity, epidemic, or other urgent circumstances, shall not be deemed as forced labor.
- (5) Labor which is performed by convicts in places of confinement and which is regulated by law shall not be deemed as forced labor either.

#### Article 49

- (1) Every person shall have the right to rest and leisure, as well as to annual paid holidays.
- (2) Working hours shall be established by law.

#### Article 50

- (1) Trade unions shall be freely established and shall function independently. They shall defend the professional, economic, and social rights and interests of employees.
- (2) All trade unions shall have equal rights.

#### Article 51

- (1) Employees shall have the right to strike in order to protect their economic and social interests.
- (2) The restrictions of this right, and the conditions and procedures for the implementation thereof shall be established by law.

#### Article 52

The State shall guarantee the right of citizens to old age and disability pension, as well as to social assistance in the event of unemployment, sickness, widowhood, loss of breadwinner, and other cases provided by law.

#### Article 53

The State shall take care of people's health and shall guarantee medical aid and services in the event of sickness. The procedure for providing medical aid to citizens free of charge at State medical facilities shall be established by law. The State shall promote the physical culture of the society and shall support sports. The State and each individual must protect the environment from harmful influences.

## **CONSTITUTION OF THE REPUBLIC OF MALTA**

Adopted in: 1964

### Section 7

The State recognises the right of all citizens to work and shall promote such conditions as will make this right effective.

### Section 10

Primary education shall be compulsory and in State schools shall be free of charge.

### Section 12

(1) The State shall protect work.

(2) It shall provide for the professional or vocational training and advancement of workers.

### Section 13

The maximum number of hours of work per day shall be fixed by law.

(2) The worker is entitled to a weekly day of rest and to annual holidays with pay; he cannot renounce this right.

### Section 14

The State shall promote the equal right of men and women to enjoy all economic, social, cultural, civil and political rights and for this purpose shall take appropriate measures to eliminate all forms of discrimination between the sexes by any person, organisation or enterprise; the State shall in particular aim at ensuring that women workers enjoy equal rights and the same wages for the same work as men.

### Section 15

The minimum age for paid labour shall be prescribed by law.

### Section 16

The State shall provide for safeguarding the labour of minors and assure to them the right to equal pay for equal work

### Section 17

(1) Every citizen incapable of work and unprovided with the resources necessary for subsistence is entitled to maintenance and social assistance.

(2) Workers are entitled to reasonable insurance on a contributory basis for their requirements in case of accident, illness, disability, old-age and involuntary unemployment.

(3) Disabled persons and persons incapable of work are entitled to education and vocational training

## **Chapter IV Fundamental Rights and Freedoms of the Individual**

### Section 32

Whereas every person in Malta is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely --

- (a) life, liberty, security of the person, the enjoyment of property and the protection of the law;
- (b) freedom of conscience, of expression and of peaceful assembly and association; and
- (c) respect for his private and family life,

the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms, subject to such limitations of that protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

### Section 35

(1) No person shall be required to perform forced labour.

(2) For the purposes of this section, the expression "forced labour" does not include --

- (a) any labour required in consequence of the sentence or order of a court;
- (b) labour required of any person while he is lawfully detained by sentence or order of a court that, though not required in consequence of such sentence or order, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained or, if he is detained for the purpose of his care, treatment, education or welfare, is reasonably required for that purpose;
- (c) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;
- (d) any labour required during a period of public emergency or in the event of any other emergency or calamity that threatens the life or well-being of the community.



## Section 42

(1) Except with his own consent or by way of parental discipline no person shall be hindered in the enjoyment of his freedom of peaceful assembly and association, that is to say, his right peacefully to assemble freely and associate with other persons and in particular to form or belong to trade or other unions or associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision

(a) that is reasonably required

(i) in the interests of defence, public safety, public order, public morality or decency, or public health; or

(ii) for the purpose of protecting the rights or freedoms of other persons; or

(b) that imposes restrictions upon public officers, and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(3) For the purposes of this section, any provision in any law prohibiting the holding of public meetings or demonstrations in any one or more particular cities, towns, suburbs or villages shall be held to be a provision which is not reasonably justifiable in a democratic society.

## Section 45

(1) Subject to the provisions of subsections (4), (5) and (7) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (7) and (8) of this section, no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision

(a) for the appropriation of public revenues or other public funds; or

(b) with respect to persons who are not citizens of Malta; or

(c) with respect to adoption, marriage, dissolution of marriage, burial, devolution of property on death or any matters of

personal law not herein before specified; or

(d) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description and to any other provision of this Constitution, is reasonably justifiable in a democratic society; or

(e) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency;

Provided that paragraph (c) of this subsection shall not apply to any law which makes any provision that is discriminatory, either of itself or in its effect by affording different treatment to different persons attributable wholly or mainly to their respective description by sex.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision:

(a) with respect to qualifications for service or conditions of service in any disciplined force; or

(b) with respect to qualifications (not being qualifications specifically relating to sex) for service as a public officer or for service of a local government authority or a body corporate established for public purposes by any law.

(6) Subsection (2) of this section shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5) of this section.

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision (not being provisions specifically relating to sex), whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 38, 40, 41, 42 and 44 of this Constitution, being such a restriction as is authorised by section 38(2), 40(2), 41(2), 42(2) or 44(3).

(8) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

(9) A requirement, however made, that the Roman Catholic Apostolic Religion shall be taught by a person professing that religion shall not be held to be inconsistent with or in contravention of this section.

(10) Until the expiration of a period of two years commencing on the 1st July, 1991, nothing contained in any law made before the 1st July, 1991, shall be held to be inconsistent with the provisions of this section, in so far as that law provides for different treatment to different persons attributable wholly or mainly to their respective description by sex.

(11) Nothing in the provisions of this section shall apply to any law or anything done under the authority of a law, or to any procedure or arrangement, in so far as such law, thing done, procedure or arrangement provides for the taking of special measures aimed at accelerating de facto equality between men and women, and in so far only as such measures, taking into account the social fabric of Malta, are shown to be reasonably justifiable in a democratic society.

## CONSTITUTION OF THE REPUBLIC OF POLAND

23 November 1992

### Constitutional Act

*The Constitutional Act of 17 October 1992 on the mutual relations between the legislative and executive institutions of the Republic of Poland and on local self-government (Journal of Laws of the Republic of Poland of 23 November 1992, No. 84, item 426).*

For the purpose of improving the activity of the supreme authorities of the State, pending the passing of a new Constitution of the Republic of Poland, it is enacted as follows:

#### Article 17

(1) By means of a statute, self-governments may be created within a profession in which the public repose confidence, and such self-governments shall concern themselves with the proper practice of such professions in accordance with, and for the purpose of protecting, the public interest.

(2) Other forms of self-government shall also be created by means of statute. Such self-governments shall not infringe the freedom to practice a profession nor limit the freedom to undertake economic activity

#### Article 20

A social market economy, based on the freedom of economic activity, private ownership, and solidarity, dialogue and cooperation between social partners, shall be the basis of the economic system of the Republic of Poland

#### Article 22

Limitations upon the freedom of economic activity may be imposed only by means of statute and only for important public reasons

### Chapter II The Freedoms, Rights, and Obligations of Persons and Citizens

#### [Section I] General Principles

#### Article 32

(1) All persons shall be equal before the law. All persons shall have the right to equal treatment by public authorities.

(2) No one shall be discriminated against in political, social or economic life for any reason whatsoever.

### Article 33

(1) Men and women shall have equal rights in family, political, social and economic life in the Republic of Poland.

(2) Men and women shall have equal rights, in particular, regarding education, employment and promotion, and shall have the right to equal compensation for work of similar value, to social security, to hold offices, and to receive public honours and decorations.

### Article 37

(1) Anyone, being under the authority of the Polish State, shall enjoy the freedoms and rights ensured by the Constitution.

(2) Exemptions from this principle with respect to foreigners shall be specified by statute.

## **[Section II] Personal Freedoms and Rights**

### Article 48

(1) Parents shall have the right to rear their children in accordance with their own convictions. Such upbringing shall respect the degree of maturity of a child as well as his freedom of conscience and belief and also his convictions.

(2) Limitation or deprivation of parental rights may be effected only in the instances specified by statute and only on the basis of a final court judgment

### Article 51

(1) No one may be obliged, except on the basis of statute, to disclose information concerning his person.

(2) Public authorities shall not acquire, collect nor make accessible information on citizens other than that which is necessary in a democratic state ruled by law.

(3) Everyone shall have a right of access to official documents and data collections concerning himself. Limitations upon such rights may be established by statute.

(4) Everyone shall have the right to demand the correction or deletion of untrue or incomplete information, or information acquired by means contrary to statute.

(5) Principles and procedures for collection of and access to information shall be specified by statute

### Article 52

(1) Freedom of movement as well as the choice of place of residence and sojourn within the territory of the Republic of Poland shall be ensured to everyone.

- (2) Everyone may freely leave the territory of the Republic of Poland.
- (3) The freedoms specified in Paragraphs (1) and (2) above may be subject to limitations specified by statute.
- (4) A Polish citizen may not be expelled from the country nor forbidden to return to it.
- (5) Anyone whose Polish origin has been confirmed in accordance with statute may settle permanently in Poland.

#### Article 56

- (1) Foreigners shall have a right of asylum in the Republic of Poland in accordance with principles specified by statute.
- (2) Foreigners who, in the Republic of Poland, seek protection from oppression, may be granted the status of a refugee in accordance with international agreements to which the Republic of Poland is a party.

### **[Section III] Political Freedoms and Rights**

#### Article 58

- (1) The freedom of association shall be guaranteed to everyone.
- (2) Associations whose purposes or activities are contrary to the Constitution or statutes shall be prohibited. The courts shall adjudicate whether to permit an association to register or to prohibit an association from such activities.
- (3) Statutes shall specify types of associations requiring court registration, a procedure for such registration and the forms of supervision of such associations.

#### Article 59

- (1) The freedom of association in trades unions, socio-occupational organizations of farmers, and in employers' organizations shall be ensured.
- (2) Trade unions and employers and their organizations shall have the right to bargain, particularly for the purpose of resolving collective disputes, and to conclude collective labour agreements and other arrangements.
- (3) Trade unions shall have the right to organize workers' strikes or other forms of protest subject to limitations specified by statute. For protection of the public interest, statutes may limit or forbid the conduct of strikes by specified categories of employees or in specific fields.
- (4) The scope of freedom of association in trade unions and in employers' organizations may only be subject to such statutory limitations as are permissible in accordance with international agreements to which the Republic of Poland is a party.

### Article 60

Polish citizens enjoying full public rights shall have a right of access to the public service based on the principle of equality.

## **[Section IV] Economic, Social, and Cultural Freedoms and Rights**

### Article 64

(1) Everyone shall have the right to ownership, other property rights and the right of succession.

(2) Everyone, on an equal basis, shall receive legal protection regarding ownership, other property rights and the right of succession.

(3) The right of ownership may only be limited by means of a statute and only to the extent that it does not violate the substance of such right.

### Article 65

(1) Everyone shall have the freedom to choose and to pursue his occupation and to choose his place of work. Exceptions shall be specified by statute.

(2) An obligation to work may be imposed only by statute.

(3) The permanent employment of children under 16 years of age shall be forbidden. The types and nature of admissible employments shall be specified by statute.

(4) A minimum level of remuneration for work, or the manner of setting its levels shall be specified by statute.

(5) Public authorities shall pursue policies aiming at full, productive employment by implementing programmes to combat unemployment, including the organization of and support for occupational advice and training, as well as public works and economic intervention.

### Article 66

(1) Everyone shall have the right to safe and hygienic conditions of work. The methods of implementing this right and the obligations of employers shall be specified by statute.

(2) An employee shall have the right to statutorily specified days free from work as well as annual paid holidays; the maximum permissible hours of work shall be specified by statute.

## **Chapter VIII - The fundamental rights and duties of citizens**

### Article 67

(1) A citizen shall have the right to social security whenever incapacitated for work by reason of sickness or invalidism as well as having attained retirement age. The scope and forms of social security shall be specified by statute.

(2) A citizen who is involuntarily without work and has no other means of support, shall have the right to social security, the scope of which shall be specified by statute.

#### Article 68

(1) Everyone shall have the right to have his health protected. (2) Equal access to health care services, financed from public funds, shall be ensured by public authorities to citizens, irrespective of their material situation. The conditions for, and scope of, the provision of services shall be established by statute.

(3) Public authorities shall ensure special health care to children, pregnant women, handicapped people and persons of advanced age.

(4) Public authorities shall combat epidemic illnesses and prevent the negative health consequences of degradation of the environment.

(5) Public authorities shall support the development of physical culture, particularly amongst children and young persons.

#### Article 69

Public authorities shall provide, in accordance with statute, aid to disabled persons to ensure their subsistence, adaptation to work and social communication.

#### Article 70

(1) Everyone shall have the right to education. Education to 18 years of age shall be compulsory. The manner of fulfilment of schooling obligations shall be specified by statute.

(2) Education in public schools shall be without payment. Statutes may allow for payments for certain services provided by public institutions of higher education.

(3) Parents shall have the right to choose schools other than public for their children. Citizens and institutions shall have the right to establish primary and secondary schools and institutions of higher education and educational development institutions. The conditions for establishing and operating non-public schools, the participation of public authorities in their financing, as well as the principles of educational supervision of such schools and educational development institutions, shall be specified by statute.

(4) Public authorities shall ensure universal and equal access to education for citizens. To this end, they shall establish and support systems for individual financial and organizational assistance to pupils and students. The conditions for providing of such assistance shall be specified by statute.

(5) The autonomy of the institutions of higher education shall be ensured in accordance with principles specified by statute.



### Article 71

(1) The State, in its social and economic policy, shall take into account the good of the family. Families, finding themselves in difficult material and social circumstances - particularly those with many children or a single parent - shall have the right to special assistance from public authorities.

(2) A mother, before and after birth, shall have the right to special assistance from public authorities, to the extent specified by statute.

### Article 72

(1) The Republic of Poland shall ensure protection of the rights of the child. Everyone shall have the right to demand of organs of public authority that they defend children against violence, cruelty, exploitation and actions which undermine their moral sense.

(2) A child deprived of parental care shall have the right to care and assistance provided by public authorities.

(3) Organs of public authority and persons responsible for children, in the course of establishing the rights of a child, shall consider and, insofar as possible, give priority to the views of the child.

(4) The competence and procedure for appointment of the Commissioner for Children's Rights shall be specified by statute.

### Article 75

(1) Public authorities shall pursue policies conducive to satisfying the housing needs of citizens, in particular combatting homelessness, promoting the development of low-income housing and supporting activities aimed at acquisition of a home by each citizen.

(2) Protection of the rights of tenants shall be established by statute.

### Article 76

Public authorities shall protect consumers, customers, hirers or lessees against activities threatening their health, privacy and safety, as well as against dishonest market practices. The scope of such protection shall be specified by statute.

## CONSTITUTION OF THE REPUBLIC OF ROMANIA

8 Dec 1991

### **Title I - General principles**

#### Article 4 - Unity of the people and equality among citizens

1. The State foundation is laid on the unity of the Romanian people.
2. Romania is the common and indivisible homeland of all its citizens, equality without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin.

#### Article 6 - Right to identity

1. The State recognises and guarantees the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity.
2. The protecting measures taken by the Romanian State for the presentation, development and expression of identity of the persons belonging to national minorities shall conform to the principles of equality and non-discrimination in relation to the other Romanian citizens.

#### Article 9 - Trade unions

Trade unions may be constituted and pursue their activities in accordance with their own statutes, as provided for by law. They contribute to the defence of the rights and the promotion of the professional, economic and social interests of their members.

### **Title II - Fundamental rights, freedoms and duties**

#### **Chapter I - General provisions**

#### Article 16 - Equality of rights

1. Citizens are equal before the law and public authorities, without any privilege or discrimination.
2. No one is above the law.
3. Access to a public office or dignity, civil or military, is granted to persons whose citizenship is only and exclusively Romanian, and whose domicile is in Romania.

#### Article 20 - International human rights treaties

1. Constitutional provisions concerning the citizens' rights and liberties shall be interpreted and enforced in conformity with the Universal Declaration of Human Rights, with the covenants and other treaties Romania is a party to.

2. Where any inconsistencies exist between the covenants and treaties on fundamental human rights Romania is a party to, and internal laws, the international regulations shall take precedence.

## **Chapter II - Fundamental rights and freedoms**

### Article 32

(1) The right to education is provided for by the compulsory general education, by education in high schools and vocational schools, by higher education, as well as other forms of instruction and post-graduate courses for refreshing education.

(2) Education of all grades shall be in Romanian. Education may also be conducted in a foreign language of international use, under the terms laid down by law.

(3) The right of persons belonging to national minorities to learn their mother tongue, and their right to be educated in this language are guaranteed; the ways to exercise these rights shall be regulated by law.

(4) Public education shall be free, according to the law.

(5) Educational establishments, including private institutions shall be set up and conduct their activity according to the provisions of the law.

(6) The autonomy of the Universities is guaranteed.

(7) The State shall ensure the freedom of religious education, in accordance with the specific requirements of each religious cult. In public schools, religious education is organized and guaranteed by law.

### Article 33 - Right to protection of health

1. The right to the protection of health is guaranteed.

2. The State shall be bound to take measures to ensure public hygiene and health.

3. The organisation of the medical care and social security system in case of sickness, accidents, maternity and recovery, the control over the exercise of medical professions and paramedical activities, as well as other measures to protect physical and mental health of person shall be established according to the law.

### Article 37- Right to association

1. Citizens may freely associate into political parties, trade unions and other forms of association.

2. Any political parties or organisations which, by their aims or activity, militate against political pluralism, the principles of a State governed by the rule of law or against the sovereignty, integrity or independence of Romania shall be unconstitutional.

3. Judges of the Constitutional Court, the Advocates of the People, magistrates, active members of the armed forces, policemen and other categories of civil servants, established by an organic law, may not join political parties.

4. Secret associations are prohibited.

#### Article 38 - Labour and social protection of labour

1. The right to work cannot be restricted. Everyone has the free choice of profession and workplace.

2. All employees have the right to social protection of labour. The protecting measures concern safety and hygiene of work, working conditions for women and the young, the setting up of a minimum wage per economy, weekends, paid annual leave, work carried out under hard conditions, as well as other specific situations.

3. The normal duration of a working day is maximum eight hours, on the average.

4. On equal work with men, women shall get equal wages.

5. The right to collective labour bargaining and the binding force of collective agreements shall be guaranteed.

#### Article 39 - Prohibition of forced labour

1. Forced labour is prohibited.

2. Forced labour does not include:

a. any service of a military character or activities performed in lieu thereof by those who, according to the law, are exempted from compulsory military service for conscientious objection;

b. the work of a sentenced person, carried out under normal conditions during detention or conditional release;

c. any services required to deal with a calamity or any other danger, as well as those, which are part of normal civil obligations as established by law.

#### Article 40 - Right to strike

1. The employees have the right to strike in the defence of their professional, economic and social interests.

2. The law shall regulate the conditions and limits governing the exercise of this right, as well as the guarantees necessary to ensure the essential services for the society.

#### Article 43 - Living standard

1. The State shall be bound to take measures of economic development and social protection, of a nature to ensure a decent living standard for its citizens.
2. Citizens have the right to pensions, paid maternity leave, medical care in public health establishments, unemployment benefits, and other forms of social care, as provided by law.

#### Article 44 - Family

- (1) The Family is founded on the freely consented marriage of the spouses, their full equality, as well as the right and duty of the parents to ensure the upbringing, education, and instruction of their children.
- (2) The terms for entering into marriage, dissolution, and nullity of marriage, shall be established by law. Religious wedding may be celebrated only after civil marriage.
- (3) Children born out of wedlock are equal before the law with those born in wedlock.

#### Article 45 - Children, Youths

- (1) Children and the young shall enjoy special protection and assistance in the pursuit of their rights.
- (2) The State shall grant state allowances for children and benefits for the care of sick or disabled children. Other forms of social protection for children and the young shall be established by law.
- (3) The exploitation of minors, their employment in activities that might be harmful to their health or morals, or endanger their life and normal development are prohibited.
- (4) Minors under the age of fifteen may not be employed for any paid labor.
- (5) The public authorities are bound to contribute to secure the conditions towards the free participation of young people in the political, social, economic, cultural, and sporting life of the country

#### Article 46 - Disabled

The disabled shall enjoy special protection. The State shall ensure the promotion of a national policy of preventive care, treatment, readjustment, education, instruction, and social integration of the disabled, while observing the rights and duties of their parents or legal tutors.

## CONSTITUTION OF THE SLOVAK REPUBLIC

3 September 1992

### **The preamble**

We, the Slovak People

Bearing in mind the political and cultural heritage of our predecessors, the experience gained through centuries of struggle for our national existence, and statehood,

Mindful of the spiritual bequest of Cyril and Methodius, and the historical legacy of Great Moravia.

Recognising the natural right of nations to self determination,

Together with members of national minorities and ethnic groups living in the Slovak Republic,

In the interest of continuous peaceful co-operation with other democratic countries,

Endeavouring to implement democratic forms of government, guarantee a life of freedom, and promote spiritual, cultural and economic prosperity,

We, the citizens of the Slovak Republic, have, herewith and by our representatives, adopted this Constitution:

### **Part two - Fundamental rights and freedoms**

#### **Chapter one - General provisions**

##### Article 11

International instruments on human rights and freedoms ratified by the Slovak Republic and promulgated under statutory requirements shall take precedence over national laws provided that the international treaties and agreements guarantee greater constitutional rights and freedoms.

##### Article 12

1. All human beings are free and equal in dignity and rights. Their fundamental rights and freedoms are inalienable, irrevocable, and absolutely perpetual.

2. Fundamental rights shall be guaranteed in the Slovak Republic to every person regardless of sex, race, colour, language, faith, religion, political affiliation or conviction, national or social origin, nationality or ethnic origin, property, birth or any other status, and no person shall be denied their legal rights, discriminated against or favoured on any of these grounds.

3. Every person has the right to freely decide which national group he or she is a member of. All manners of influence or coercion that may affect or lead to a denial of a person's original nationality shall be prohibited.

4. No person shall be prevented from exercising his or her fundamental rights and freedoms.

## **Chapter two - Fundamental human rights and freedoms**

### Article 23

(1) Freedom of movement and of abode are guaranteed.

(2) Everyone who is rightfully staying on the territory of the Slovak Republic has the right to freely leave this territory.

(3) Freedoms according to Sections (1) and (2) can be restricted by law if it is unavoidable for the security of the state, to maintain public order, protect the health and the rights and liberties of others, and, in designated areas, also for reasons of environmental protection.

(4) Every citizen has the right to freely enter the territory of the Slovak Republic. A citizen must not be forced to leave his homeland and he must not be deported or extradited.

(5) A foreign national can be deported only in cases specified by law.

### Article 18

1. No one may be subjected to forced labour or services.

2. Section 1 of this Article shall not apply to:

a. prisoners or persons sentenced to alternatives of imprisonment.

b. military service or other services performed in lieu of compulsory service of armed forces,

c. services lawfully required in cases of natural disasters, calamities and other events threatening the lives, health or valuable property of citizens,

d. activities lawfully required for the protection of life, health and rights of other people.

### Article 19

(1) Everyone has the right to the preservation of his human dignity and personal honor, and the protection of his good name.

(2) Everyone has the right to protection against unwarranted interference in his private and family life.

(3) Everyone has the right to protection against the unwarranted collection, publication, or other illicit use of his personal data.

## Article 22

(1) The privacy of correspondence and secrecy of mailed messages and other written documents and the protection of personal data are guaranteed.

(2) No one must violate the privacy of correspondence and the secrecy of other written documents and records, whether they are kept in privacy or sent by mail or in another way, with the exception of cases to be set out in a law. Equally guaranteed is the secrecy of messages conveyed by telephone, telegraph, or other similar means

## **Chapter three - Political rights**

### Article 29

1. The right of free association shall be guaranteed. Everyone has the right to associate freely with other persons in unions, societies and other associations.

2. Citizens may form political parties and political movements and associate therein.

3. The exercise of rights in sections 1 and 2 of this Article may be limited only in cases justified by law where, in a democratic society, it is necessary to protect national security and public order, prevent crime and protect rights and freedoms of other persons.

4. Political parties and political movements, as well as unions, societies or associations shall be separate from the State.

### Article 30

1. - 3. (...)

4. All citizens shall have equal access to elected or public offices.

## **Chapter five - Economic, social and cultural rights**

### Article 35

1. Every person shall have the right to choose freely his or her profession and to receive appropriate training, as well as the right to earn his or her living through entrepreneurial activities.

2. Terms of, or restrictions on, specific professions, trades or activities may be regulated by law.

3. Citizens shall have the right to work. The state shall guarantee, within reasonable limits, the material welfare of those who cannot enjoy this right through no fault of their own. The terms thereof shall be specified by law.

4. The rights of aliens provided in sections 1 to 3 of this Article, as concerns aliens, may be governed under a separate law.



### Article 36

All employees shall have the right to fair and satisfactory conditions at work. The law shall provide in particular for:

- a. the right to compensation for the work performed to secure a dignified standard of life,
- b. the security from arbitrary dismissal and discrimination at work,
- c. the protection of health and safety at work,
- d. the setting of maximum working hours,
- e. reasonable rest time after work,
- f. a minimum amount of paid vacation,
- g. the right of collective bargaining.

### Article 37

1. Every person shall have the right to associate freely with other persons to protect their economic and social interests.
2. Trade unions shall be independent of the state. There shall be no restrictions on the number of trade unions, and no encouragement of specific unions in certain companies or industries.
3. The activities of trade unions and other associations formed to protect economic and social interests may be limited by law only where, in a democratic society, such measures may be necessary for the protection of the national security, public order, and rights and freedoms of other persons.
4. The right to strike shall be guaranteed. The terms thereof shall be provided by law. Judges, prosecutors, members of the armed forces, and members of fire squads shall be disqualified from the exercise of this right.

### Article 38

1. Women, minors and disabled persons shall enjoy more extensive health protection and special working conditions.
2. Minors and disabled persons shall enjoy special protection in employment relations and special assistance in training.
3. Further details of the rights defined in sections 1 and 2 of this Article shall be specified by law.

### Article 39

1. Citizens shall be entitled to adequate material security in their old age, as well as in cases of disability, and death of the family's principal provider.

2. Any person suffering material hardship, shall have the right to such assistance as may be necessary to secure his or her fundamental standard of life.
3. Further details of rights defined in sections 1 and 2 of this Article shall be provided by law.

#### Article 40

Every person shall have the right to protect his or her health. Through medical insurance, the citizens shall have the right to free health care and medical equipment for disabilities under the terms to be provided by law.

#### Article 41

1. Matrimony, parentage and family shall be protected by law. Special protection shall be enjoyed by children and young persons.
2. Pregnant women shall be entitled to special treatment, terms of employment and working conditions.
3. Equal rights shall be guaranteed to both children born of legitimate matrimony and born out of lawful wedlock.
4. Child care and upbringing shall be the right of parents, children shall have the right to parental care and upbringing. The rights of parents may be limited and minor children may be separated from parents against the parents' will only by a court order as provided by law.
5. Parents taking care of their children shall have the right to assistance provided by the state.
6. Further details of the rights defined in sections 1 to 5 of this Article shall be set by law.

#### Article 42

- (1) Everyone has the right to education. School attendance is compulsory. Its period and age limit will be defined by law.
- (2) Citizens have the right to free education at primary and secondary schools and, based on their abilities and society's resources, also at higher educational establishments.
- (3) Schools other than state schools may be established, and instruction in them provided, only under conditions defined by law. Such schools may charge a tuition fee.
- (4) A law will specify under which conditions citizens who are engaged in studies are entitled to assistance from the state.

### **Chapter seven - Right to judicial and other legal protection**

#### Article 47

1. Every person shall have the right to refuse to give testimony, which might incriminate that person or another person close to him or her.

2. Every person shall have the right to counsel from the outset of proceedings before any court of law, or a governmental or public authority as provided by law.
3. All parties to any proceedings under section 2 of this Article shall be treated equally under the law.
4. A person who claims not to know the language used in the proceedings under section 2 of this Article shall have the right to an interpreter.

#### **Chapter eight- part one and part two, joint provisions**

##### Article 52

1. Whenever the term "citizen" is used in Part One and Part Two of this Constitution, it means a citizen of the Slovak Republic.
2. Unless expressly designated only for the citizens of the Slovak Republic aliens shall enjoy the same fundamental rights and freedoms guaranteed by this Constitution.
3. Whenever the term "citizen" is used in any previous rules, it means any person, provided the rights and freedoms are guaranteed by this Constitution irrespective of the citizenship.

##### Article 54

Judges and prosecutors may be denied the right of free enterprise and other business activities and the right defined in Article 29, section 2, civil servants holding offices specified by law may also be denied the right defined in Article 37, section 4, members of the armed forces may also be denied the rights defined in Articles 27 and 28 in cases where these rights interfere with the exercise of their duties. The right to strike may be denied to those working in professions immediately involved in the protection of life and health.

## CONSTITUTION OF THE REPUBLIC OF SLOVENIA

23 December 1991

Whereas it is consistent with the Basic Constitutional Charter on the Independence and Sovereignty of the Republic of Slovenia,

and, acknowledging that we Slovenians created our own national identity and attained our nationhood based on the protection of human rights and freedoms, on the fundamental and permanent right of the Slovenian people to self-determination and as a result of our historical and centuries-long struggle for the liberation of our people,

be it hereby enacted by the Parliament of the Republic of Slovenia,

The Constitution of the Republic of Slovenia

### **Part I. Introductory**

#### Article 2

Slovenia is a state governed by the rule of law and is a social state.

#### Article 5

Within its own territory, Slovenia shall protect human rights and fundamental freedoms. It shall uphold and guarantee the right of the autochthonous Italian and Hungarian ethnic communities. It shall attend to the welfare of the autochthonous Slovenian minorities in neighbouring countries and of Slovenian emigrants and migrant workers abroad and shall promote their contacts with their homeland. It shall assist the preservation of the natural and cultural heritage of Slovenia in harmony with the creation of opportunities for the development of civilized society and cultural life in Slovenia.

Slovenians not holding Slovenian citizenship shall enjoy special rights and privileges in Slovenia. The nature and extent of those rights and privileges shall be determined by statute.

#### Article 7

(1) The State and religious groups shall be separate.

(2) Religious groups shall enjoy equal rights under the law and shall be guaranteed freedom of activity.

#### Article 13

Foreigners shall, in accordance with international agreements, enjoy all those rights which are guaranteed by this Constitution and by the law, with the exception of those rights which only citizens of Slovenia may enjoy pursuant to this Constitution or the law.

## **Part II. Human rights and fundamental freedoms**

### Article 14 - Equality before the law

(1) In Slovenia each individual shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other beliefs, financial status, birth, education, social status or whatever other personal circumstance.

(2) All persons shall be equal before the law.

### Article 15 - The exercise of and limitations on rights

(1) The direct exercise of human rights and fundamental freedoms shall be guaranteed by this Constitution.

(2) The manner in which human rights and fundamental freedoms shall be exercised may be regulated, but only by statute, whenever such regulations is authorized by this Constitution or whenever such regulation is necessary by reason of the particular nature of the individual rights or freedoms.

(3) Human rights and fundamental freedoms shall only be limited by the rights of others and in such cases as are determined by this Constitution.

(4) Human rights and fundamental freedoms shall be guaranteed judicial protection. Moreover, this protection shall extend to the right to obtain redress for the abuse of such rights and freedoms.

(5) It shall not be permissible to restrict any human right or fundamental freedom exercisable by acts which would otherwise be legal in Slovenia, on the basis that this Constitution does not recognize that right or freedom or only recognizes it to a limited extent

### Article 16 - Temporary revocation or restriction of rights

It shall be permissible to temporarily revoke or restrict the human rights and fundamental freedoms guaranteed by this Constitution, but only in exceptional circumstances of war or a state of emergency. Human rights and fundamental freedoms may only be revoked or restricted for the duration of the war or of the state of emergency, only to the extent required by the same and only inasmuch as the revocation or restriction does not create inequality of treatment based only on national origin, sex, language, religion, political or other beliefs, financial status, birth, education, social or any other personal circumstance.

Notwithstanding the previous paragraph, there shall be no temporary revocation or restriction of the rights guaranteed by Articles 17, 18, 21, 27, 28, 29 and 41 of this Constitution.

### Article 22 - Equality in the Protection of Rights

Each person shall be guaranteed equality in the protection of his rights in any proceeding before a court, as well as before any government body, local government body or statutory authority which determines the rights, obligations or legal entitlements of such person.

### Article 29 - Legal Guarantees in Criminal Proceedings

Any person charged with a criminal offence must be afforded absolute equality in implementation of the following additional rights:

- the right to have sufficient time and opportunity to prepare his defence;
- the right to be tried in his own presence and to conduct his own defence or to be defended by a legal representative;
- the right to produce all evidence assisting his case;
- the right not to be compelled to incriminate himself or his family or friends, or not to be compelled to plead guilty.

### Article 38 - Personal Data

- (1) The protection of personal data relating to an individual shall be guaranteed.
- (2) Any use of personal data shall be forbidden where that use conflicts with the original purpose for which it was collected.
- (3) The collection, processing and the end-use of such data, as well as the supervision and protection of the confidentiality of such data, shall be regulated by statute.
- (4) Each person has the right to be informed of the personal data relating to him which has been collected and has the right to legal remedy in the event of any misuse of same.

### Article 42 - Right of assembly and association

The right of peaceful assembly and the right to participate in public meetings shall be guaranteed.

Each person shall have the right to freely associate with others.

It shall be lawful to restrict these rights by statute in circumstances involving national security, public safety or the protection of the public against the spread of infectious disease.

Permanent defence and police personnel may not be members of political parties

### Article 49 - The freedom of work

The freedom of work shall be guaranteed.

Each person shall freely choose his employment.

There shall be no unjust discrimination in work opportunities available to each person.

Forced labour shall be forbidden.

#### Article 50 - The right to social security

All citizens, who fulfil such conditions as may be laid down by statute shall have the right to social security.

The state shall regulate compulsory health, pension, disability and other social insurance and shall ensure the proper administration thereof.

War veterans and civilian casualties of war shall be guaranteed special benefits as provided by statute.

#### Article 51- The right to health care

Each person shall have the right to health care as determined by statute.

Rights to government-financed health care shall be regulated by statute.

No person shall be compelled to undergo medical treatment except in such cases as are determined by statute.

#### Article 52 - Rights of the disabled

The disabled shall be guaranteed security and the right to work-training as determined by statute

Mentally or physically handicapped children and other severely disabled persons shall have the right to education and work-training in order that they may lead an active life in society.

The education and work-training referred to in the last preceding paragraph shall be financed out of public revenue.

#### Article 53 - Marriage and the family

(1) Marriage is based on the equality of each spouse. The ceremony of marriage shall be performed by the appropriate civil authority.

(2) Marriage, the legal rights and obligations flowing from marriage, the legal rights and obligations within the family, together with the legal rights and obligations arising by reason of relationships outside marriage, shall be determined by statute.

(3) The State shall protect the family, motherhood, fatherhood, children and young people and shall provide proper conditions for effecting such protection.

#### Article 54 - The rights and obligations of parents

Parents shall have the right and obligation to maintain, educate and guide their children. In accordance with statute, such right or obligation may be abrogated in whole or in part, but only in so far as is necessary to protect the interests of such children.

Children born out of wedlock shall have the same rights as children born within marriage.

#### Article 56 - The rights of children

Children shall enjoy special protection and care. Children shall enjoy human rights and fundamental freedoms consistent with their age and level of maturity.

Children shall be guaranteed such special protection from economic, social, physical, mental and other exploitation and maltreatment as shall be determined by statute.

Children and minors who are not properly cared for by their parent, who have no parents or who are without proper family care, shall enjoy the special protection of the state as provided by statute.

#### Article 57- Education and Schooling

(1) Education shall be free.

(2) Primary education shall be compulsory and shall be financed from public revenue.

(3) The State shall provide the opportunity for all citizens to obtain a proper education.

#### Article 63 - Prohibition against incitement to discrimination and to intolerance and prohibition against incitement to violence and war

All incitement to ethnic, racial, religious or other discrimination, as well as the inflaming of ethnic, racial, religious or other hatred or intolerance, shall be unconstitutional.

All incitement to violence or to war shall be unconstitutional.

#### Article 62 - Use of Language and Script

In order to give effect to his rights and obligations, and in all dealings with State bodies and other bodies having official functions, each person shall have the right to use his own language and script in such a manner as shall be determined by statute.

### **Part III. Economic and social relations**

#### Article 66 - Security of employment

The state shall be responsible for the creation of opportunities for employment and for work, and shall ensure the protection thereof by statute.



Article 74 - Business Sector

- (1) Free enterprise shall be guaranteed.
- (2) The establishment of businesses shall be regulated by statute. Any business activity in conflict with the public interest may not be pursued.
- (3) Restrictive trading practices and other practices which restrict free competition, as specified by statute, shall be forbidden.

Article 75 - Participation in management

Workers may participate in the management of businesses and in government enterprises and instrumentalities in such manner and under such conditions as shall be determined by statute.

Article 76 - Freedom of trade unions

The establishment of trade unions, their operation and membership thereof shall be free.

Article 77- The right to strike

Workers shall enjoy the right to strike.

This right may be restricted by statute where such restriction is in the public interest, having regard to the type and nature of the enterprise or instrumentality affected.

Article 79 - Foreigners employed in Slovenia

Foreigners employed in Slovenia, together with members of their families, shall enjoy such special rights as may be determined by statute.

## THE CONSTITUTION OF THE REPUBLIC OF TURKEY

### Article 2

The Republic of Turkey is a democratic, secular and social State governed by the rule of law; bearing in mind the concepts of public peace, national solidarity and justice; respecting human rights; loyal to the nationalism of Atatürk, and based on the fundamental tenets set forth in the Preamble.

### Article 10

All individuals are equal without any discrimination before the law, irrespective of language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such considerations.

No privilege shall be granted to any individual, family, group or class.

State organs and administrative authorities shall act in compliance with the principle of equality before the law in all their proceedings.

### Article 14

None of the rights and freedoms embodied in the Constitution shall be exercised with the aim of violating the indivisible integrity of the State with its territory and nation, of endangering the existence of the Turkish State and Republic, of destroying fundamental rights and freedoms, of placing the government of the State under the control of an individual or a group of people, or establishing the hegemony of one social class over others, or creating discrimination on the basis of language, race, religion or sect, or of establishing by any other means a system of government based on these concepts and ideas.

The sanctions to be applied against those who violate these prohibitions, and those who incite and provoke others to the same end shall be determined by law.

No provision of this Constitution shall be interpreted in a manner that would grant the right of destroying the rights and freedoms embodied in the Constitution.

### Article 18

No one shall be required to perform forced labour. Unpaid compulsory work is prohibited.

The term forced labour does not include work required of an individual while serving a court sentence or under detention services required from citizens during a state of emergency, and physical or intellectual work necessitated by the requirements of the country as a civic obligation, provided that the form and conditions of such labour are prescribed by law.

### Article 29

Publication of periodicals or nonperiodicals shall not be subject to prior authorisation or to the deposit of a financial guarantee.

To publish a periodical it shall suffice to submit the information and documents prescribed by law to the competent authority designated by law. If the information and documents submitted are found to be in contravention of law, the competent authority shall apply to the appropriate court for suspension of publication.

The publication of periodicals, the conditions of publication, the financial resources and rules relevant to the profession of journalism shall be regulated by law. The law shall not impose any political, economic, financial, and technical conditions obstructing or making difficult the free dissemination of news, thought, or beliefs.

Periodicals shall have equal access to the means and facilities of the State, other public corporate bodies, and their agencies.

### Article 33

Everyone has the right to form associations without prior permission.

Submitting the information and documents stipulated by law to the competent authority designated by law shall suffice to enable an association to be formed. If the information and documents submitted are found to contravene the law, the competent authority shall apply to the appropriate court for the suspension of activities or dissolution of the association involved.

No one shall be compelled to become or remain a member of an association. The formalities, conditions, and procedures governing the exercise of freedom of association shall be prescribed by law.

Associations shall not contravene the general grounds of restriction in Article 13, nor shall they pursue political aims, engage in political activities, receive support from or give support to political parties, or take joint action with labour unions, with public professional organisations or with foundations.

Associations deviating from their original aims or conditions of establishment, or failing to fulfill the obligations stipulated by law shall be considered dissolved.

Associations may be dissolved by decision of judge in cases prescribed by law. They may be suspended from activity by the competent authority designated by law pending a court decision in cases where delay endangers the indivisible integrity of the State with its territory and nation, national security or sovereignty, public order, the protection of the rights and freedoms of others, or the prevention of crime.

Provisions of the first paragraph of this article shall not prevent imposition of restrictions on the rights of Armed Forces and Security Forces officials and civil servants to form associations, or the prohibition of the exercise of this right.

### Article 42

No one shall be deprived of the right of learning and education.

The scope of the right to education shall be defined and regulated by law.

Training and education shall be conducted along the lines of the principles and reforms of Atatürk, on the basis of contemporary science and education methods, under the supervision and control of the State. Institutions of training and education contravening these provisions shall not be established.

The freedom of training and education does not relieve the individual from loyalty to the Constitution.

Primary education is compulsory for all citizens of both sexes and is free of charge in state schools.

The principles governing the functioning of private primary and secondary schools shall be regulated by law in keeping with the standards set for state schools.

The State shall provide scholarships and other means of assistance to enable students of merit lacking financial means to continue their education. The State shall take necessary measures to rehabilitate those in need of special training so as to render such people useful to society.

Training, education, research, and study are the only activities that shall be pursued at institutions of training and education. These activities shall not be obstructed in any way.

No language other than Turkish shall be taught as mother tongue to Turkish citizens at any institutions of training or education. Foreign languages to be taught in institutions of training and education and the rules to be followed by schools conducting training and education in a foreign language shall be determined by law. The provisions of international treaties are reserved.

#### Article 48

Everyone has the freedom to work and conclude contracts in the field of his choice. The establishment of private enterprises is free.

The State shall take measures to ensure that private enterprises operate in accordance with national economic requirements and social objectives and in conditions of security and stability.

#### Article 49

Everyone has the right and duty to work.

The State shall take the necessary measures to raise the standard of living of workers, to protect them in order to improve the general conditions of labour, to promote labour, and to create suitable economic conditions for prevention of unemployment.

The State shall take facilitating and protecting measures in order to secure labour peace in worker-employer relations.

#### Article 50

No one shall be required to perform work unsuited to his age, sex, and capacity.

Minors, women, and persons with physical or mental disabilities shall enjoy special protection with regard to working conditions.

All workers have the right to rest and leisure.

Rights and conditions relating to paid weekends and holidays, together with paid annual leave, shall be regulated by law.

#### Article 51

Workers and employers have the right to form labour unions and employers' associations and higher organisations, without prior permission, in order to safeguard and develop their economic and social right and the interests of their members in their labour relations.

In order to form unions and their higher bodies, it shall suffice to submit the information and documents prescribed by law to the competent authority designated by law. If this information and documentation is not in conformity with law, the competent authority shall apply to the appropriate court for the suspension of activities or the dissolution of the union or the higher body.

Everyone shall be free to become a member of or withdraw from membership in a union.

No one shall be compelled to become a member, remain a member, or withdraw from membership of a union.

Workers and employers cannot hold concurrent membership in more than one labour union or employers' association.

Employment in a given workplace shall not be made conditional on being, or not being, a member of a labour union.

To become an executive in a labour union or in higher organisations of them it is a prerequisite condition that the workers should have held the status of a labourer for at least ten years.

The status, the administration, and the functioning of the labour unions and their higher bodies should not be inconsistent with the characteristics of the Republic as defined in the Constitution, or with democratic principles.

#### Article 52

Labour unions, in addition to being under the general restrictions set forth in Article 13, also shall not pursue a political cause, engage in political activity, receive support from political parties or give support to them, and shall not act jointly for these purposes with associations, public professional organisations, and foundations.

The fact of engaging in labour union activities in a workplace shall not justify failure to perform one's work.

The administrative and financial supervision of labour unions by the State, and their revenues and expenditures, and the method of payment of membership dues to the labour union, shall be regulated by law.

Labour unions shall not use their revenues beyond the scope of their professional aims, and shall keep all their funds in State banks.

#### Article 53

Workers and employers have the right to conclude collective bargaining agreements in order to regulate reciprocally their economic and social position and conditions of work.

The procedure to be followed in concluding collective bargaining agreements shall be regulated by law.

More than one collective bargaining agreement at the same place of work for the same period shall not be concluded or put into effect.

#### Article 54

Workers have the right to strike if a dispute arises during the collective bargaining process. The procedures and conditions governing the exercise of this right and the employer's recourse to a lockout, the scope of both actions, and the exceptions to which they are subject shall be regulated by law.

The right to strike, and lockout shall not be exercised in a manner contrary to the principle of goodwill to the detriment of society, and in a manner damaging national wealth.

During a strike, the labour union is liable for any material damage caused in a workplace where the strike is being held, as a result of deliberate negligent behaviour by the workers and the labour union.

The circumstances and places in which strikes and lockouts may be prohibited or postponed shall be regulated by law.

In cases where a strike or a lockout is prohibited or postponed, the dispute shall be settled by the Supreme Arbitration Board at the end of the period of postponement. The disputing parties may apply to the Supreme Arbitration Board by mutual agreement at any stage of the dispute.

The decisions of the Supreme Arbitration Board shall be final and have the force of collective bargaining agreement.

The organisation and functions of the Supreme Arbitration Board shall be regulated by law.

Politically motivated strikes and lockouts, solidarity strikes and lockouts, occupation of work premises, labour go-slows, production decreasing, and other forms of obstruction are prohibited.

Those who refuse to go on strike shall in no way be barred from working at their workplace by strikers.

#### Article 55

Wages shall be paid in return for work.

The State shall take the necessary measures to ensure that workers earn a fair wage suitable for the work they perform and that they enjoy other social benefits.

In determining the minimum wage, the economic and social conditions of the country shall be taken into account.

#### Article 56

Everyone has the right to live in a healthy, balanced environment.

It is the duty of the State and the citizens to improve the natural environment, and to prevent environmental pollution.

To ensure that everyone lead their lives in conditions of physical and mental health and to secure cooperation in terms of human and material resources through economy and increased productivity, the State shall regulate central planning and functioning of the health services.

The State shall fulfill this task by utilizing and supervising the health and social assistance institutions, in both the public and private sectors.

In order to establish widespread health services general health insurance may be introduced by law.

#### Article 57

The State shall take measures to meet the needs for housing, within the framework of a plan which takes into account the characteristics of cities and environmental conditions and supports community housing projects.

#### Article 58

The State shall take measures to ensure the training and development of youth into whose keeping our State, independence, and our Republic are entrusted, in the light of contemporary science, in line with the principles and reforms of Atatürk, and in opposition to ideas aiming at the destruction of the indivisible integrity of the State with its territory and nation.

The State shall take necessary measures to protect youth from addiction to alcohol, drug addiction, crime, gambling, and similar vices, and ignorance.

#### Article 59

The State shall take measures to develop the physical and mental health of Turkish citizens of all ages, and encourage the spread of sports among the masses.

The State shall protect successful athletes.

Article 60

Everyone has the right to social security.

The State shall take the necessary measures and establish the organisation for the provision of social security.

Article 61

The State shall protect the widows and orphans of those killed in war and in the line of duty, together with the disabled and war veterans, and ensure that they enjoy a decent standard of living.

The State shall take measures to protect the disabled and secure their integration into community life.

The aged shall be protected by the State. State assistance to the aged, and other rights and benefits shall be regulated by law.

The State shall take all kinds of measures for social resettlement of children in need of protection.

To achieve these aims the State shall establish the necessary organisations or facilities, or arrange for their establishment by other bodies.