



UNICE

Union of Industrial and Employers' Confederations of Europe
Union des Confédérations de l'Industrie et des Employeurs d'Europe

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Preliminary UNICE statement
on a
Charter on Fundamental Rights

1. UNICE supports the objective of the Cologne European Council to establish a charter on fundamental rights and make their overriding importance and relevance more visible to the Union's citizens. Article 6 paragraph 2 of the Treaty on the European Union already asserts that the Union shall respect fundamental rights as a general principle of the Community law. This objective is important not only for EU citizens but also for citizens of countries aspiring to join the EU.
2. Undoubtedly the proposed Charter should unambiguously recognise those rights and freedoms which are generally considered to be fundamental and inalienable such as the respect of dignity of the human person, the right to life, to liberty and security, or the right to a fair trial.
3. The Charter should also include other freedoms and rights associated with democracy such as freedom of assembly and association, freedom of expression, and the right to own and enjoy property, including intangible assets such as intellectual and industrial property.
4. In drafting the Charter recognition should be given to the vital need for Europe to remain competitive in a global and open trading system, since this is the best way to guarantee social well being and employment. The Treaty's four fundamental freedoms - free movement of persons, goods, services and capital- should be explicitly included in the Charter, as these freedoms represent an important dimension of European citizenship. In this context the Charter should acknowledge the key issues of freedom of enterprise and trade. Should the Charter encourage the free flow of information, this ought to be balanced against the right to privacy and data protection, including the protection of business secrets and proprietary information.
5. The application of the Charter should be limited to the Institutions and bodies of the European Union within the framework of the powers and tasks assigned to them by the European Treaties. It should respect present competences of the European Union and should not extend existing powers. The obligation to respect fundamental rights should be a constraint on the Community's action and not a licence to legislate.

6. The Charter should:

- make the existing human rights and fundamental freedoms for European citizens more visible;
- be consistent and compatible with international conventions and Member States' national constitutions;
- be applicable to the Union's institutions within the context of EU legislative competencies.
- give a clear statement of the common values of democracy, tolerance and liberty for all while at the same time respecting Europe's diversity;
- be clear and simple for maximum public impact.

7. The credibility and broad public acceptance of the Charter could be threatened if expectations are raised that cannot be fulfilled. Fundamental rights and political aspirations must be clearly delineated. In addition it should be remembered that the social and employment chapters of the Treaties have already set out the powers of the Union to act on a European level. Any change should be a specifically inter-governmental matter. It should be kept in mind that hitherto the Member States have specifically excluded the topics of pay, right of association, as well as the right to strike or impose a lockout from EU legislative competence.

8. Whatever status is given to the Charter it is essential that it should not give rise to legal uncertainty. The Charter should neither compromise existing rights nor raise conflicts of jurisprudence. In particular, overlaps of jurisdiction should be avoided, and it is important that the Charter should not raise new questions of responsibilities of the existing European Courts.

9. A forward-looking Charter should not miss the unique opportunity to express Europe's readiness to meet the upcoming challenges of developing a well-functioning market economy throughout the European Union. Therefore the freedom of establishment and entrepreneurship should be fully recognised in order to ensure the development of a democratic and enlarged Union. In focussing on the rights of European citizens, it is vital that the rights of European undertakings are also respected. Finally, UNICE believes that the Charter should specifically recognise the value and richness of diversity in Europe.