

CHAPTER 2

Community Charter of the Fundamental Social Rights of Workers

The Social Charter will illustrate this leap forward in the social dimension. It will show our political will to build a social Europe, in accordance with the essential subsidiarity and also with variety.

*Declaration by President Delors
on 8 December 1989
at the European Council of Strasbourg*

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 1989¹

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 15 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, especially 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;

¹ Text adopted by the Heads of State or Government of 11 Member States.

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.

3. The right of freedom of movement shall also imply:

- harmonization of conditions of residence in all Member States, particularly those concerning family reunification;
- elimination of obstacles arising from the non-recognition of diplomas or equivalent occupational qualifications;
- 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:

- workers shall be assured of an equitable wage, i.e. a wage sufficient to enable them to have a decent standard of living;
- workers subject to terms of employment other than an open-ended full-time contract shall benefit from an equitable reference wage;
- 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

17. 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:

- 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;
- in connection with restructuring operations in undertakings or in cases of mergers having an impact on the employment of workers;
- in cases of collective redundancy procedures;

- when frontiers 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 protection.

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.