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## Information and Notices

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## I

*(Resolutions, recommendations and opinions)*

## RESOLUTIONS

## EUROPEAN PARLIAMENT

**Educating the children of migrants**

P6\_TA(2009)0202

**European Parliament resolution of 2 April 2009 on educating the children of migrants (2008/2328(INI))**

(2010/C 137 E/01)

*The European Parliament,*

- having regard to Articles 149 and 150 of the EC Treaty,
- having regard to Article 14 of the Charter of Fundamental Rights of the European Union,
- having regard to the Commission Green Paper of 3 July 2008 entitled Migration and mobility: challenges and opportunities for EU education systems (COM(2008)0423),
- having regard to the Council Directive 77/486/EEC of 25 July 1977 on the education of the children of migrant workers <sup>(1)</sup>,
- having regard to the Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin <sup>(2)</sup>,
- having regard to the Presidency Conclusions of the Lisbon European Council of 23 and 24 March 2000,
- having regard to the Presidency Conclusions of the European Council of 13 and 14 March 2008,
- having regard to its resolution of 13 October 2005 on integrating immigrants in Europe through schools and multilingual education <sup>(3)</sup>,
- having regard to its resolution of 27 September 2007 on efficiency and equity in European education and training systems <sup>(4)</sup>,

<sup>(1)</sup> OJ L 199, 6.8.1977, p. 32.<sup>(2)</sup> OJ L 180, 19.7.2000, p. 22.<sup>(3)</sup> OJ C 233 E, 28.9.2006, p. 121.<sup>(4)</sup> OJ C 219 E, 28.8.2008, p. 300.

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- having regard to its resolution of 16 January 2008 on adult learning: it is never too late to learn <sup>(1)</sup>,
  - having regard to its resolution of 23 September 2008 on improving the quality of teacher education <sup>(2)</sup>,
  - having regard to the opinion of the European Economic and Social Committee of 25 February 2009 on the Commission Green Paper - Migration and mobility: challenges and opportunities for EU education systems,
  - having regard to Rule 45 of its Rules of Procedure,
  - having regard to the report of the Committee on Culture and Education (A6-0125/2009),
- A. whereas the European Council of 13-14 March 2008 called on Member States to improve the achievement levels of learners with a migrant background,
- B. whereas the European Year of Intercultural Dialogue 2008 provided the right moment to launch the debate on the challenges and opportunities for EU education systems,
- C. whereas migration within the Union and immigration into the Union has increased over the last decades, changing in many places the composition of schools,
- D. whereas cultural differences frequently hamper understanding and dialogue between pupils and between pupils and teachers,
- E. whereas clear evidence exists that the educational attainment of migrant children is considerably lower than that of non-migrant children; and whereas a large number of children in schools from a migrant background are in precarious socio-economic situation,
- F. whereas the fact that migrant children's talents often are not discovered and remain unused entails social, cultural and economic disadvantages for society as a whole,
- G. whereas school education up to a certain age is a basic right as well as an obligation for children, regardless of their background, as enshrined in Article 14 of the Charter of Fundamental Rights, requiring also compliance with national education laws,
- H. whereas the content and organisation of education and training are national competences and whereas it is at national or regional level that strategies need to be defined and implemented,
- I. whereas migration can enrich schools culturally and educationally, but can, in the absence of suitable accompanying measures, lead to serious divergences,
- J. whereas Member States must reform their national education and training systems; whereas they need to work together to develop the policy instruments necessary to manage the consequences of migration,
- K. whereas the increasing diversity of the school population, arising from increased migration, is a challenge for the teaching profession, which does not receive training in how to deal adequately with this new form of classroom diversity,
1. Welcomes the abovementioned Commission Green Paper of 3 July 2008;
2. Believes that the Commission is right to address the consequences for Member States' educational systems not only of migration within the Union but also of immigration into the Union;

<sup>(1)</sup> OJ C 41 E, 19.2.2009, p. 46.

<sup>(2)</sup> Texts adopted, P6\_TA(2008)0422.

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3. Stresses that workers within the Union may be less willing to work abroad if there is a risk that their children will suffer educationally, and that satisfactory education for migrant children is related to freedom of movement of workers;
4. Is of the opinion that greater efforts at EU level are necessary as all Member States face similar challenges in this respect; recalls that the percentage of migrant children in school is likely to rise in the future;
5. Recalls that the establishment of integrated support centres for legal immigrants are of great importance as they allow immigrants to address effectively all integration obstacles (e.g. work-related subjects, education, health, etc) with the assistance of a professional;
6. Encourages the development in the Member States of a model of partnership between schools and communities enabling children whose parents are working abroad to benefit from programmes of assistance, support and counselling from the community;
7. Insists that migrant children and adults must have and be willing to take the opportunity to learn the languages of the host country if they are to integrate fully in it;
8. Calls on the Member State governments to ensure education for the children of legal migrants, including the teaching of the official languages of the host country and the promotion of their native languages and cultures;
9. Believes it is essential that the parents, and especially the mothers, of migrant children should be involved in the programmes for teaching the official languages of the host country, to ensure that the children are not separated from society and to help them integrate at school;
10. Believes that preserving and promoting multilingualism must be a part of every school curriculum; insists that language-learning should be encouraged from pre-school age in order to promote the inclusion of migrants; believes, however, that the place given to teaching in the mother tongue within the curriculum and the organisation thereof must specifically be left to the Member States;
11. Calls, in respect of children accompanying parents who move to another Member State for employment, for difficulties, in terms of registering in school at a level corresponding to that at which they had been studying in their Member State of origin, to be tackled;
12. Insists on the importance for families and other members of the local community to be directly involved as social integration is the responsibility of the entire society not only of schools; underlines the fact that bodies providing social advice for immigrants must be encouraged to cooperate in providing better information on education and vocational training in the context of the labour market of the host country;
13. Recognises that civil society plays an important role in supporting migrants and that it can, in parallel to the official education system, make a vital contribution in areas such as teaching the host country's language;
14. Stresses the need to integrate migrants and social categories such as Roma people, in society; emphasises that integration must be based on the principles of equal opportunities in education, ensuring equal access to quality education; rejects any solutions - whether temporary or permanent - that are based on, or lead to, segregation and poor education;
15. Underlines the importance of developing inter-cultural communication skills of children, both migrants and those of host countries, and believes that the ability to communicate one's own culture and understand the culture and values of others shall constitute a central element of the key competence: 'cultural awareness and expression';
16. Suggests that additional financial and administrative support for language courses should be provided to legal migrants, by trained staff who also understand the mother tongue of the migrants;

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17. Insists on the importance of migrant children learning their mother tongue and the languages of their country of residence as well as acquiring reading and writing skills from pre-school age;
18. Recognises the importance of introducing into school curricula classes taught to migrants in their native language so as to ensure the preservation of their cultural heritage;
19. Stresses the importance of sport in education and training and its important role for the integration and social inclusion of those from less privileged backgrounds; recommends that the social policy of the Member States take full account of the important integrative role of sport for migrant populations;
20. Stresses the need to involve young migrants in a wide range of extracurricular activities, since this is an excellent means of social integration;
21. Underlines that the earlier and the more successfully migrant children and young people are integrated into schools the better they will do at school, in further education, and in the labour market; strongly believes that early pre-primary education considerably reinforces such prospects and therefore calls on the Member States to strengthen the participation of migrants in pre-primary education;
22. Recommends that the Member States avoid creating ghetto-type schools or special classes for migrant children, and that they promote an inclusive educational policy under which children are allocated to classes on the basis of educational level and individual needs;
23. Considers that in schools attended by migrant children the curriculum should pay much more attention to their needs, and that the teachers should be trained in intercultural skills to enable them to deal as effectively as possible with diversity in the school;
24. Insists that adult education for migrants can promote integration of both adult migrants and their children and stresses therefore the need to strongly develop lifelong learning for migrant parents;
25. Is concerned about the high level of early school leaving of the migrant children and believes that efforts shall be made to ensure the completion of the courses by the migrant children;
26. Stresses that a high-quality education system must be open to everyone;
27. Is convinced that measures to improve the education of migrant children benefit society as a whole;
28. Believes that teacher education should be interdisciplinary and should equip teachers for diversity, and multicultural and multilingual education approaches;
29. Favours mobility schemes under which teachers are recruited from the country of origin so as to facilitate migrant children's contact with the culture and civilisation of their country of origin;
30. Stresses that the quality of teacher education should be focussed in terms of teachers' missions;
31. Underlines in this particular context the importance of the mobility of teachers as an integral part of teacher education programmes; considers that teachers should have the opportunity to spend one or two semesters at host universities abroad;
32. Believes that schools need immigrant teachers as they offer an important experience to their colleagues, represent the success of social integration and could serve as role models for children in difficulty;
33. Underlines the importance of special training for teachers that explicitly addresses the special situation of the children of migrants, the necessity of integrating them successfully in mainstream school education systems, and the need to improve their level of educational attainment;
34. Emphasises the need for counselling services to help migrant children and young people deal with culture shock and adapt to the host society;

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35. Proposes that individual Member States develop educational programmes aimed at improving awareness of human rights issues, with the stress on equality, inclusion and personal freedom, so as to avoid the xenophobia and segregation which might appear inevitable where migrants are concerned and which can spread alarmingly fast;
36. Insists that all migrants and non-migrants should have the same equal treatment; believes that school institutions and individual teachers should regard diversity as a normal situation, treat each individual with respect, and give migrants the support they need;
37. Appreciates the contribution of non-formal education to providing young migrants with valuable skills which are complementary to the ones acquired in schools and calls upon schools to cooperate more intensively with providers of non-formal education such as youth organisations;
38. Reiterates that discrimination on the grounds of race and ethnicity in the field of education is prohibited by Directive 2000/43/EC, and calls for discrimination on any grounds, including nationality and residence status to be outlawed in the field of education;
39. Recognises that, the current provisions of Directive 77/486/EEC do not correspond to the new social reality of the Union; strongly supports the consultation process launched by the Commission;
40. Emphasises that diversity in schools should be promoted and that special attention and support should be given to the most vulnerable migrant groups, including migrant girls;
41. Believes that the Directive 77/486/EEC must be amended and should cover the education of children who are nationals of non-Member States or children whose parents are non-nationals of Member States;
42. Stresses the importance of the existing EU legislation guaranteeing the educational rights of third-country students, such as Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States <sup>(1)</sup> and Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents <sup>(2)</sup>; calls on the Commission to undertake ongoing monitoring of all measures taken in the Member States tending to curtail or abolish the rights acquired;
43. Calls for schools with a high proportion of immigrant children to receive the necessary staff and facilities to cope with the challenge of diverse classes and to enable them to provide good teaching; requests the Commission and the Council to launch a dialogue amongst Member States in the framework of the open method of coordination to exchange best practices and to develop a common agenda to address the shortcomings in the education of immigrants;
44. Calls on the Commission to report regularly on the progress made in the integration of migrant children in the school system of the Member States;
45. Considers that large towns and cities must be given, and must make use of, the freedom to coordinate policy designed to promote the integration of migrant children with policies and strategies regarding housing, (child)care, the employment market, health and welfare, areas which all have a proven impact on the academic results of migrant children and their successful integration within society;
46. Instructs its President to forward this resolution to the Council, the Commission, the European Economic and Social Committee, the Committee of the Regions and the governments and parliaments of the Member States.

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<sup>(1)</sup> OJ L 158, 30.4.2004, p. 77.

<sup>(2)</sup> OJ L 16, 23.1.2004, p. 44.

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## **Right of EU citizens and their family members to move and reside freely within the territory of the Member States**

P6\_TA(2009)0203

**European Parliament resolution of 2 April 2009 on the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (2008/2184(INI))**

(2010/C 137 E/02)

*The European Parliament,*

- having regard to Article 18 of the EC Treaty and Article 45 of the Charter of Fundamental Rights of the European Union (the Charter of Fundamental Rights),
- having regard to Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States <sup>(1)</sup>,
- having regard to its resolution of 15 November 2007 on the application of Directive 2004/38/EC <sup>(2)</sup>, that called on the Commission, without delay, to submit a detailed assessment of the state of the implementation and of the correctness of transposition of the Directive by Member States, together with any necessary proposals, and charged the competent committee to make an assessment of the problems entailed in transposition of the Directive, highlighting best practices and measures that might lead to forms of discrimination among Union citizens and address the issue of freedom of movement,
- having regard to its resolution of 4 December 2003 on the adoption of measures concerning the repatriation of mortal remains <sup>(3)</sup>,
- having regard to the Working Document of its Committee on Civil Liberties, Justice and Home Affairs of 13 June 2008 <sup>(4)</sup>, the questionnaire sent to national parliaments of the Member States and the feedback received,
- having regard to the report on the visit to closed detention centres for asylum seekers and immigrants in Belgium by a delegation from the Committee on Civil Liberties, Justice and Home Affairs <sup>(5)</sup>,
- having regard to its resolution of 5 February 2009 on the implementation in the European Union of Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers and refugees: visits by the Committee on Civil Liberties 2005-2008 <sup>(6)</sup>,
- having regard to its resolution of 10 July 2008 on the census of the Roma on the basis of ethnicity in Italy <sup>(7)</sup>, the opinion of its Legal Service on the compatibility of aggravating circumstances for EU citizens irregularly staying in another Member State, and the report of its Committee on Civil Liberties, Justice and Home Affairs on delegation visit to Italy,
- having regard to the Report from the Commission of 15 February 2008 entitled 'Fifth Report on Citizenship of the Union (1 May 2004 – 30 June 2007)' (COM(2008)0085),

<sup>(1)</sup> OJ L 158, 30.4.2004, p. 77.

<sup>(2)</sup> OJ C 282 E, 6.11.2008, p. 428.

<sup>(3)</sup> OJ C 89 E, 14.4.2004, p. 162.

<sup>(4)</sup> PE407.933v01-00.

<sup>(5)</sup> PE404.465v02-00.

<sup>(6)</sup> Texts adopted, P6\_TA(2009)0047.

<sup>(7)</sup> Texts adopted, P6\_TA(2008)0361.



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- having regard to the 25th Annual Report from the Commission of 18 November 2008 on monitoring the application of Community law (2007) (COM(2008)0777),
  - having regard to its resolution of 2 April 2009 on the problems and prospects concerning European citizenship <sup>(1)</sup>,
  - having regard to the report by the European Union Agency for Fundamental Rights entitled 'Homophobia and Discrimination on Grounds of Sexual Orientation in the Member States',
  - having regard to the Report from the Commission of 10 December 2008 on the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (COM(2008)0840) (the Commission Report),
  - having regard to the Conclusions of the Justice and Home Affairs Council of 27. November 2008 on 'Free movement of persons: abuses and misuses of the right to free movement',
  - having regard to European Court of Justice (ECJ) rulings relating to Union citizenship and free movement of persons, such as cases C-127/08 (Metock case), C-33/07 (Jipa case), and C-524/06 (Huber case),
  - having regard to the draft interim report entitled 'Comparative study on the application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States' requested by its Committee on Legal Affairs and delivered by the European Citizen Action Service (ECAS),
  - having regard to Rule 45 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Legal Affairs (A6-0186/2009),
- A. whereas according to the above-mentioned Fifth Report on Citizenship of the Union, as of 1 January 2006 there were approximately 8.2 million Union citizens exercising their right to reside in another Member State and whereas millions of Union citizens travel every year inside the Union,
- B. whereas freedom of movement is inherent to the concepts of human rights and Union citizenship and represents one of the fundamental rights and freedoms recognized to Union citizens by the Treaties,
- C. whereas Directive 2004/38/EC implements the principles enshrined in the Treaties by providing that Union citizens may move freely all over the Union, together with their family members, irrespective of where they come from,
- D. whereas Member States were required to transpose Directive 2004/38/EC by 30 April 2006, and whereas the Commission was due to issue its report on the application of the Directive by 30 April 2008,
- E. whereas after almost five years after the adoption of Directive 2004/38/EC, information on its transposition and practical application is finally becoming available, although with some delay in relation to the deadlines set in the Directive,
- F. whereas Parliament has repeatedly expressed concern on the way certain Member States implement freedom of movement,

<sup>(1)</sup> Texts adopted, P6\_TA(2009)0204.

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- G. whereas a constructive dialogue was recently established between the Commission, Parliament and certain Member States,
- H. whereas such dialogue has enabled national legislation to be amended to a certain extent so as to become compliant with EC legislation,
- I. whereas according to the Commission Report, the overall transposition of Directive 2004/38/EC is disappointing, as not one Member State has transposed the Directive effectively and correctly in its entirety and, moreover, not one article of the Directive has been transposed effectively and correctly by all Member States,
- J. whereas the Commission Report identifies, among many others, two main persistent breaches of the core rights of Union citizens, and particularly the right of entry and residence of third-country family members and the requirement for Union citizens to submit with their applications for residence additional documents, such as work permits and evidence of satisfactory accommodation, not provided for in Directive 2004/38/EC,
- K. whereas the Commission has so far received more than 1 800 individual complaints, 40 questions from Parliament and 33 petitions, and on that basis it has registered 115 complaints and has brought 5 infringement proceedings for incorrect application of Directive 2004/38/EC,
- L. whereas the Commission takes the view in its Report that there is no need to amend Directive 2004/38/EC at this stage, but that every effort must be made to achieve its correct implementation, through the creation of an experts' group, the collection of information, data and best practices on the basis of a questionnaire, and the issuing of guidelines in 2009 on problematic issues to ensure its full and correct application,
- M. whereas a number of national parliaments have replied to the questionnaire of its Committee on Civil Liberties, Justice and Home Affairs <sup>(1)</sup> while in certain Member States both parliamentary chambers replied to the questionnaire <sup>(2)</sup>,
- N. whereas representatives of national parliaments had the opportunity to further express their views at the Joint Committee Meeting on progress in the area of freedom, security and justice which took place on 19 and 20 January 2009,
- O. whereas its Legal Service, which was consulted by its Committee on Civil Liberties, Justice and Home Affairs on this subject, concluded that the relevant provisions of Community law preclude national legislation deeming it a general aggravating circumstance in relation to a crime or an offence for the person in question to be a citizen of one Member State illegally present on the territory of another Member State,
- P. whereas the rulings of the ECJ on the issue of freedom of movement, and particularly the Metock, Jipa and Huber cases, affirmed the following principles:
- a non-Community national who is the spouse of a Union citizen who accompanies or joins that citizen can benefit from the provisions of the Directive, irrespective of when and where their marriage took place and without the need for prior lawful residence <sup>(3)</sup>,

<sup>(1)</sup> Austria, Belgium, Cyprus, Czech Republic, Greece, Spain, Italy, Lithuania, Poland, Romania, Slovenia, Slovakia.

<sup>(2)</sup> Belgium, Czech Republic and Romania.

<sup>(3)</sup> Metock case.

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- although Article 18 of the EC Treaty and Article 27 of Directive 2004/38/EC do not preclude national legislation that allows the right of a national of a Member State to travel to another Member State to be restricted, in particular on the ground that he has previously been repatriated from the latter Member State on account of his 'illegal residence' there, provided that the personal conduct of that national constitutes a genuine, present and sufficiently serious threat to one of the fundamental interests of society and that the restrictive measure envisaged is appropriate to ensure the achievement of the objective it pursues and does not go beyond what is necessary to attain it, and it is for the national court to establish whether that is so in the case before it <sup>(1)</sup>,
  - Article 12(1) of the EC Treaty must be interpreted as meaning that it precludes the putting in place by a Member State, for the purpose of fighting crime, of a system for processing personal data specific to Union citizens who are not nationals of that Member State <sup>(2)</sup>,
- Q. whereas the above-mentioned report on a visit to closed detention centres for asylum seekers and immigrants in Belgium stated that 'the detention of EU citizens at detention centres for third-country nationals who are illegal immigrants seems shocking and disproportionate, particularly if it is true that it can be imposed merely because a simple administrative violation has been committed. The figures provided by the Belgian authorities are worrying in this respect',
- R. whereas in its above-mentioned Conclusions of 27 November 2008 the Justice and Home Affairs Council requested the Commission to bring forward an interpretative statement providing guidelines on the operation of Directive 2004/38/EC in early 2009 and to consider all other appropriate and necessary measures,
- S. whereas, on the basis of the information gathered, notably through national parliaments' answers to Parliament's questionnaire, which is unfortunately not exhaustive and does not cover all the Member States, and in addition to the Commission Report, the following main issues were identified as problematic:
- restrictive interpretation by Member States of the notion of 'family member' (Article 2), of 'any other family member' and of 'partner' (Article 3), particularly in relation to same sex partners, and their right to free movement under Directive 2004/38/EC <sup>(3)</sup>,
  - unjustified administrative burdens are imposed in respect of the entry and residence of third-country family members <sup>(4)</sup>,
  - the interpretation by Member States of 'sufficient resources' under Article 7(1)(b) of Directive 2004/38/EC is often unclear, as most Member States require that evidence of sufficient resources be given; the notion of 'unreasonable burden to the social assistance system of the host Member State' and if and in what cases the decision to expel a Union citizen who has become an unreasonable burden (Article 14, recital 10) is in many Member States uncertain as well <sup>(5)</sup>,

<sup>(1)</sup> Jipa Case.

<sup>(2)</sup> Huber Case.

<sup>(3)</sup> CY, IT, PL and SK do not recognise same sex marriages as a reason to grant free movement rights, PL and SK do not recognise registered partnerships, even if certified in another Member States; information in this regard provided by the Commission, the FRA and NGOs further proves legal uncertainty on this issue.

<sup>(4)</sup> Several letters of complaint and petitions addressed to EU Institutions highlight the fact that some Member States are reluctant to fully recognise their rights to third countries family members; by way of example, UK, Lithuanian and Polish legislation preclude a non-EU family member from entering without a visa. Legal and administrative obstacles affecting third-country family members are extremely problematic; UK legislation precludes a non-EU family member who has a residence card issued by another country from entering the country without a visa, and UK administrative practices are such that lengthy delays and extensive documentation in the processing of applications for residence cards for family members who are third-country nationals also constitute significant obstacles to the exercise of free movement rights; in Estonia, third-country nationals face problems when attempting to enter the country with a residence card issued by another Member State, and third-country family members applying for visas have been also asked to pay the visa fee; in Italy, a third-country national citizen who applies for family reunification will be required to show the lawfulness of the origin of his/her economic resources, the amount of which may not be lower than the yearly social allowance.

<sup>(5)</sup> For example in relation to Italian legislation which requires EU citizens to give evidence of their sufficient resources.

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- the interpretation by Member States of the expression ‘serious/imperative grounds of public policy and public security’ and in what cases and on what grounds it can justify an expulsion order (Articles 27 and 28) vary from one Member State to the other, are unclear and could lead to abuse (targeting of citizens of a certain Member State) or are of dubious conformity with Directive 2004/38/EC (for instance, automatic expulsion mechanisms) <sup>(1)</sup>,
  - Union citizens are often required to submit to the authorities of the host Member State unjustified additional documents not provided for in Directive 2004/38/EC <sup>(2)</sup>,
  - law and practice in relation to abuse of rights and marriages of convenience,
- T. Whereas in some Member States there are significant differences in identity documents between nationals of the country and Union citizens from another Member State, who find it difficult to prove that they are resident Union citizens, which in practice seriously hinders the exercise of their rights and their integration into social and business life,
- U. whereas the poor transposition of Directive 2004/38/EC implementing Article 18 of the EC Treaty by Member States should be condemned, and whereas such a situation results, if not in the effectiveness and necessity of the Directive itself being undermined, in the non-application of one of the key rights on which the EU is based and which are conferred on Union citizens by the Treaties,
- V. whereas according to the Commission Communication of 18 November 2008 on the impact of free movement of workers in the context of EU enlargement (COM(2008)0765) during the first phase (1 January 2007 – 31 December 2008) of the transitional arrangements mobile workers from the countries that joined the EU in 2004 and 2007 have had a positive impact on the economies of Member States,
- W. whereas four Member States of the EU-15 have not opened their labour markets for workers from the EU-8 Member States,
- X. whereas eleven Member States have notified the Commission of their decision to continue applying restrictions in their labour markets in respect of nationals of Romania and Bulgaria, as of 1 January 2009,

#### ***Application of Directive 2004/38/EC***

1. Calls on Member States to respect the spirit and the letter of Article 18 of the EC Treaty and Article 45 of the Charter of Fundamental Rights granting Union citizens the fundamental right to free movement, by implementing Directive 2004/38/EC fully and as a matter of urgency, reviewing and modifying without delay legislation and administrative practices that are contrary to EC law, particularly on the basis of the Commission Report and of the case-law of the ECJ; notes that several provisions in the legislation of most Member States run counter to the letter and the spirit of the Directive, undermining rights of free movement and Union citizenship, and that national administrative practices very often constitute significant obstacles to the exercise by citizens of their rights;
2. Calls on Member States to fully implement the rights granted under Article 2 and Article 3 of Directive 2004/38/EC not only to different sex spouses, but also to the registered partner, member of the household and the partner, including same-sex couples recognized by a Member State, irrespective of nationality and without prejudice to their non-recognition in civil law by another Member State, on the basis of the principles of mutual recognition, equality, non-discrimination, dignity, and private and family life; calls on Member States to bear in mind that the Directive imposes an obligation to recognize freedom of movement to all Union citizens (including same-sex partners) without imposing the recognition of same-sex marriages; in this regard, calls on the Commission to issue strict guidelines, drawing on the analysis and conclusions contained in the Fundamental Rights Agency report and to monitor these issues;

<sup>(1)</sup> For instance, Article 235 of the Italian criminal code provides for the expulsion of non-nationals convicted of 2 or more years of imprisonment.

<sup>(2)</sup> In some cases (Greece) competent authorities are allowed by national law to ask for the criminal record of an EU citizen applying for registration, while in other Member States (for instance in Spain and Belgium) special ID cards and residence cards are issued for other Member States nationals; in some other Member States (ES) in addition to the registration certificate, EU citizens are given a Foreigner Identity Number which is necessary in order to work or register in the social security system; in Italy EU citizens are required to prove the ‘legality’ of their resources.

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3. Calls on the Commission to issue appropriate proposals within the framework of the Stockholm Programme to guarantee free movement without discrimination based on the grounds listed in Article 13 of the EC Treaty, drawing on the analysis and conclusions contained in the Fundamental Rights Agency report;

4. Calls on Member States, while implementing the right to free movement and residence, not to place unjustified administrative burdens on Union citizens and their family members, including third-country family members, that are not expressly provided for in Directive 2004/38/EC, as these are contrary to EC law and an unjustified obstacle to the exercise of a freedom conferred directly by the EC Treaty, which is not dependent on their having completed administrative procedures; draws to the attention of Member States that it is their duty to facilitate administrative practices linked to the exercise of the right to free movement and calls on Member States to keep track of and report all administrative and court decisions based on Article 3(2) of the Directive; reminds Member States of their obligation to facilitate the entry of third-country family members of Union citizens, in order to allow them to lead a normal family life in the host Member State;

5. Calls on the Member States having such documents to adopt the same format for personal identity documents for their nationals and for Union citizens from other Member States, regardless of the differences which must be noted within the documents <sup>(1)</sup>;

6. Invites the Commission to assess carefully that the laws and practices of Member States do not infringe the rights conferred on Union citizens by the EC Treaty and the Directive and do not impose an unreasonable burden on Union citizens and their families indirectly restricting their right to free movement, particularly in relation to the notions of 'sufficient resources', 'unreasonable burden on the social assistance system of the host State', '(serious/imperative) grounds of public policy and public security', that material and procedural safeguards, protection and judicial redress against expulsions are properly in place and functioning; recalls that any limitation on the fundamental right to free movement must be interpreted strictly;

7. Notes that nationals of certain Member States and ethnic communities appear to be targeted in some Member States and stresses that they must implement Directive 2004/38/EC without discrimination between Union citizens and their family members on any of the grounds listed in Article 21 of the Charter of Fundamental Rights; calls on the Commission, the Council and all Member States to ensure and monitor in particular that discrimination based on nationality, race or ethnic origin, either in practice or in legislation, does not occur;

8. Notes that measures taken on grounds of public policy or public security should comply with the principle of proportionality and should be based exclusively on the personal conduct of the individual concerned; such personal conduct must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society; calls in this respect on Member States to review systematically national alerts for the purpose of refusing entry issued for Union citizens and their family members <sup>(2)</sup>; recalls that the public policy exceptions cannot be invoked to serve economic ends or to pursue general preventive aims;

9. Notes that not all Member States have implemented Article 35 of Directive 2004/38/EC, which allows them to adopt the necessary measures to refuse, terminate or withdraw free movement rights in cases of abuse of rights or fraud, such as marriages of convenience, provided that such measures are proportionate and non-discriminatory and that procedural safeguards are respected, and draws attention to the possibilities provided by that Article;

<sup>(1)</sup> Administrative practices which are not in conformity with EC law have a significant negative impact on citizens' rights. By way of example, the proliferation of different ID cards and residence cards within the Member States has rendered the exercise by EU citizens of their right of free movement confusing and irksome; in Spain, in addition to the registration certificate, EU citizens are issued with a Foreigner Identity Number which is necessary in order to work or register with the Spanish social security system, France has maintained an ambiguous voluntary residence title additional to the registration certificate issued to Union citizens and, in Member States such as the Czech Republic, Sweden and Belgium, authorities request additional documents in order to issue residence cards or impose conditions which are not listed in the Directive.

<sup>(2)</sup> Estonian and Hungarian legislation do not expressly provide for the exclusion of economic ends when imposing an expulsion order. In Hungarian and Romanian legislation there is no reference to the exclusion of previous criminal convictions and general preventive aims.

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10. Calls on the Commission to monitor compliance in practice with Article 24 of Directive 2004/38/EC on equal treatment and the prohibition of discrimination on the basis of nationality, in connection with Recitals 20 and 31 of that Directive and Article 21 of the Charter of Fundamental Rights, that grant Union citizens and their family members who move to another Member State the right to equal treatment with nationals of that Member State in all matters falling within the scope of the EC Treaty, and calls on the Member States to take the necessary steps to overcome shortcomings as soon as possible and to put an end to breaches of EC law without delay;

11. Calls for the repeal or revision of the transitional arrangements, which currently still provide for restrictions on the free movement of workers, nationals of the Member States that joined the EU on 1 May 2004 and on 1 January 2007, which represent a substantial damaging discrimination between Union citizens; calls for the preference clause to be enforced for all Union citizens and the creation of the single market completed;

12. Calls on the Commission and Member States in the implementation of Directive 2004/38/EC to consider the potential discriminatory effects of social security regulations and access to services of general interest which could constitute barriers to free movement;

13. Calls on the Council to define a strategy to ensure the free movement of Union citizens and workers and their access to the labour market in host Member States, to publicise the positive achievements and effects of the free movement of citizens and workers for host Member States and for the EU, and calls on the Commission to launch a study in order to identify current and future labour shortages in the EU, and the potential contribution to sustained economic growth of workers from all Member States having full access to the EU labour market;

14. Calls on the Commission and the Member States to review the limitations, restrictions and current time periods provided for in Directive 2004/38/EC to enjoy freedom of movement rights along the lines of Article 39 thereof and to analyse the impact of removing current discrimination between Union citizens in terms of their full enjoyment of free movement rights and Union citizenship rights conferred by the Treaty;

#### ***Methodology to ensure implementation***

15. Notes that unsatisfactory transposition of Directive 2004/38/EC demonstrates that the Commission has been unable to secure coherent and timely compliance with the Directive by Member States and to handle the large number of complaints from citizens in relation to the application of the Directive;

16. Supports the approach proposed by the Commission based on continuous and comprehensive monitoring of the implementation of Directive 2004/38/EC, on assisting Member States in ensuring the full and correct application of the Directive through the drawing-up of guidelines in the first half of 2009 and on bringing proceedings against Member States where their national laws and/or practices conflict with the Directive; requests the Commission to develop and present to Parliament a consistent, effective and transparent enforcement policy ensuring the application of rights of free movement; considers that the lack of human and financial resources allocated within the Commission to deal with the transposition and application of the Directive represents a serious obstacle to the Commission's capacity to credibly monitor the application of the Directive in all Member States and therefore to the unity of law in such a matter, which is so crucial for Union citizens;

17. Calls on Member States to start procedures to implement the guidelines by the end of 2009 so to adapt their national legislation and practices, and calls on them to provide the guidelines to any competent authority and monitor their application;

18. Calls on the Commission to develop guidelines with common criteria in relation to the minimum amount regarded as 'sufficient resources' and to clarify on which basis Member States should take into account 'the personal situation of the person concerned' under Article 8(4) of Directive 2004/38/EC;



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19. Calls on the Commission to develop in its guidelines a uniform interpretation mechanism of the normative categories of 'public policy', 'public security' and 'public health', and to clarify how taking account of considerations such as residence period, age, state of health, family and economic situation, social and cultural integration, and links with the country of origin, are relevant for the expulsion decision provided for in Article 28(1) of Directive 2004/38/EC;
20. Recognises the restrictions on repatriation of mortal remains of Union citizens and calls on the Commission to bring forward a Code of Conduct to which Member States could adhere to, in order to ensure that it is a corollary to the freedom of movement of citizens;
21. Calls on the Commission to increase funds and to set up a specific budget line for supporting national and local projects aimed at the integration of Union citizens and their family members, as defined by Articles 2 and 3 of Directive 2004/38/EC residing in another Member State;
22. Asks the Commission to set a deadline for the implementation of the guidelines, after which proceedings would be brought, and asks to be fully involved and regularly informed of developments in the process;
23. Calls on the Commission to set, with regard to the free movement of people, a mutual evaluation system to be carried out by teams composed of experts designated by the Member States and by Parliament, assisted by the Commission and the General Secretariat of the Council, based on on-the-spot visits and without encroaching on the powers with which the Commission is entrusted with by the Treaties;
24. Calls on the Commission to require from Member States periodic reports including statistical data in relation to freedom of movement, for instance on the number of occasions when entry and residence rights were denied and of expulsions carried out and for which reason;
25. Calls on the Member States to assist their nationals residing in other Member States by offering at their consular and diplomatic missions all necessary information on freedom of movement;
26. Calls on the Commission to verify the existence in Member States of systems for processing personal data specific to Union citizens who are not nationals of that Member State and whether they contain only those data necessary for applying Directive 2004/38/EC and national transposition legislation; calls on it also to verify whether similar systems exist for the purpose of fighting crime, and calls on those Member States which have such systems, to review them, in compliance with the Huber case;
27. Calls on those Member States which have laws that are not compatible with the Metock case to review them urgently and invites the Commission to bring proceedings against them if they do not comply;
28. Welcomes the Commission's intention to enhance Union citizens' awareness of their rights under Directive 2004/38/EC and to distribute a simplified guide for Union citizens, making the best use of the Internet, and reminds Member States of their duties under Article 34 of the Directive to inform citizens of their rights in relation to free movement; in this regard, calls on Member States to establish information and assistance offices in relation to free movement rights;

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29. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.
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## Problems and prospects concerning European citizenship

P6\_TA(2009)0204

### European Parliament resolution of 2 April 2009 on problems and prospects concerning European Citizenship (2008/2234(INI))

(2010/C 137 E/03)

*The European Parliament,*

- having regard to the Charter of Fundamental Rights of the European Union, and in particular Title V thereof entitled 'Citizens' Rights',
  - having regard to the Report from the Commission of 15 February 2008 entitled 'Fifth Report on Citizenship of the Union (1 May 2004 – 30 June 2007)' (COM(2008)0085),
  - having regard to Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States <sup>(1)</sup> (the Free Movement Directive),
  - having regard to the own initiative opinion of the Committee of the Regions of 9 October 2008 on Citizens' rights: Promotion of fundamental rights and rights derived from European citizenship <sup>(2)</sup>,
  - having regard to Rule 45 and Rule 112(2) of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on the Internal Market and Consumer Protection, Committee on Legal Affairs, Committee on Constitutional Affairs and Committee on Women's Rights and Gender Equality (A6-0182/2009),
- A. whereas the common market and economic integration are nearing true completion, although the legal basis for Union citizenship is still at the development stage,
- B. whereas Article 17 of the EC Treaty introduced by the Maastricht Treaty states that 'every person holding the nationality of a Member State shall be a citizen of the Union', and that principle was further developed by the Treaty of Amsterdam which stipulates that 'citizenship of the Union shall complement and not replace national citizenship',
- C. whereas Union citizenship is therefore an addition to the citizenships of the Member States and, as such, its granting is regulated by each Member State on the basis of its own laws, which differ among the Member States,
- D. whereas identity as a Union citizen can be based only on national identity, and the Commission's attention should be drawn to the fact that people living in deep poverty, and people with a low level of schooling - among them Roma - do not have access to the amount of information that could motivate their European awareness; whereas their growing exclusion from European societies devalues both their citizenship and Union citizenship,
- E. whereas, however, without prejudice to the power of individual Member States to determine the ways of acquiring and losing citizenship, the Tampere European Council of 15 and 16 October 1999 endorsed 'the objective that long-term legally resident third-country nationals be offered the opportunity to obtain the nationality of the Member State in which they are resident',

<sup>(1)</sup> OJ L 158, 30.4.2004, p. 77.

<sup>(2)</sup> OJ C 325, 19.12.2008, p. 76.



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- F. whereas all Union citizens are entitled to vote and stand for election in local and European elections in the Member State of their residence under the same conditions as citizens of that Member State,
- G. whereas granting the right to vote and stand for election in local elections in the Member State of residence is essential for Union citizens in order to create a sense of genuinely belonging in that Member State,
- H. whereas in some Member States, the right conferred on Union citizens by Article 19 of the EC Treaty to vote and stand in local and European elections is currently undermined to the extent that Union citizens who are nationals of another Member State are not entitled to become members of political parties in the Member State where they are supposed to exercise that right,
- I. whereas recourse to Parliament's Committee on Petitions and to the European Ombudsman is an important non-judicial means of redress available to Union citizens,
- J. whereas the enlargement of the European Union has resulted in a considerable increase in the number of Union citizens residing outside their Member State of origin,
- K. whereas Article 20 of the EC Treaty, although unfortunately restricted to the situation where a citizen of a Member State is in the territory of a third country where that Member State is not represented, entitles every Union citizen to the diplomatic or consular protection of any Member State which is duly represented in that third country; whereas, that right cannot be properly exercised in the absence of clear and binding practical rules and protocols to be followed by the consular authorities,
- L. whereas although that same Article 20 of the EC Treaty imposes an obligation on the Member States to 'establish the necessary rules among themselves and start the international negotiations required to secure this protection', the fact remains that only one binding act has so far been adopted, namely Decision 95/553/EC <sup>(1)</sup>, which entered into force in 2002 and consists of only one page that completely fails to establish a fully-fledged system to assist and alleviate the suffering of Union citizens abroad in a crisis situation,
- M. whereas, in particular in a situation of crisis and personal suffering, effective consular and diplomatic protection granted outside the territory of the European Union without distinction by all Member States to all Union citizens would significantly contribute to the appreciation by those citizens of the advantages of being part of the European Union,
1. Welcomes the fact that the Treaty of Lisbon makes it possible for one million Union citizens from different Member States collectively to invite the Commission to submit legislative proposals, and believes that such a legal right will significantly raise awareness of Union citizenship among Europeans; recalls that transparency and democratic participation must be achieved by a variety of forms of partnership among the EU and Member States, regional and local institutions, social partners and civil society; calls on the Commission to prepare transparent and easily understandable procedures implementing the 'citizenship initiative', so that Union citizens are able to effectively initiate legislation immediately after the Treaty of Lisbon enters into force; while it hopes that it will not be necessary, stresses that the Commission should incorporate this right of initiative into its policies regardless of the final status of the Treaty;
2. Notes that the right of Union citizens to move and reside freely within the territory of the Member States cannot be viewed in isolation from other rights and basic principles of the European Union, such as the freedom of movement of workers and the freedom to provide services; and therefore calls on the Member States to lift their existing barriers set up pursuant to the Accession Treaties in order to enable all citizens to exercise all of their rights;

<sup>(1)</sup> Decision of the Representatives of the Governments of the Member States meeting within the Council of 19 December 1995 regarding protection for citizens of the European Union by diplomatic and consular representations (OJ L 314, 28.12.1995, p. 73).

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3. Recommends, in the light of the fundamental EC Treaty principles of free movement, non-discrimination and citizens' rights, that the Commission continue to use all available means to achieve the lifting of the remaining transitional arrangements imposed on the 'new' Member States as soon as possible;
4. Is concerned by the poor implementation of current directives, especially the Free Movement Directive, which causes many problems relating to free movement and other rights of Union citizens, and calls on all parties to correctly and fully transpose and implement the Community acquis;
5. Calls on the Commission to produce a list of the obstacles facing Union citizens wishing to make full and unhindered use of the free movement of persons and other established advantages for Union citizens, and asks the Commission to incorporate the results in a scoreboard so as to ensure that such obstacles are dealt with thoroughly and effectively;
6. In the light of the findings of Eurobarometer Flash 213 (a 2007 Eurobarometer survey) to the effect that only 31 % of the respondents considered themselves well informed about their rights as Union citizens, considers it vital to adopt an effective approach to information and communication aimed at making Union citizens aware of their rights and obligations and helping them to assume an active role in EU decision-taking, thus enabling participatory democracy to be genuinely exercised;
7. Notes with regret that the Fifth Report on Citizenship of the Union contains no concrete proposals concerning the exercise by citizens of their rights and the duty of the Member States to safeguard those rights in practice; asks that the Sixth Report be more proactive in this respect;
8. Expresses its disappointment at the Commission's failure to consult civil society in the preparation of the Fifth Report, and expects such consultation to take place as part of the preparation of the Sixth Report, as pledged by the Commission;
9. Calls on the Commission to revise its 'Europe for Citizens' Programme to improve communication with the average Union citizen and to ensure broad dissemination; notes that while structural support for Brussels-based think-tanks and research institutes is important, such organisations do little to inform individuals other than those who are already informed; calls on the Commission refocus its funding on non-Brussels based regional and local civil society and social partner organisations and to introduce, in the future, programmes similar to very successful 'Youth in Action Programme 2007-2013' to help local and regional governmental authorities to inform their residents of their rights as Union citizens; since proposals for multilingualism should not be limited to the main official/ Member State languages, calls on the Member States to disseminate information about Union citizenship also in regional and minority languages;
10. In view of, among other things, the low number of Union citizens resident in a Member State other than their own who exercise their right to vote or stand in either European or local elections in their place of residence, as well as the practical obstacles that potential voters are too often confronted with in the exercise of their rights, takes the view that the 2009 European elections should be seen as an opportunity for the preparation and application of a pan-European action plan designed to develop the EU identity of Union citizens and to raise their awareness of their rights;
11. Calls for women to participate on a larger scale in politics and decision-taking so as to promote European integration; to that end, believes that they need to be the target of more clear-cut awareness campaigns, the object being to enable them to exercise their rights as Union citizens to the full and be more active within political groupings, in politics, and in connection with the work of local authorities in the Member State of their residence;
12. Points out the need to launch better and more effective information campaigns that promote Union citizenship rights among young people such as setting up a 'citizenship programme' in schools and universities, with a view to preparing the younger generation for active citizenship;
13. Believes that Member States should incorporate the European dimension into school syllabuses at primary and secondary levels;
14. Calls on European universities to take all financial measures within their means to increase the percentage of students who take part in exchanges within the Erasmus programme;

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15. Calls on the Commission to propose further consolidated and clarified directives improving free movement and other rights for Union citizens in other fields, including in the area of professional mobility, the portability of pensions and social rights and the mutual recognition of degrees and professional qualifications;
16. Points out that the right to move and reside freely within EU territory will be impossible to exercise to the full unless, among other measures, an effective system is established for the recognition of professional qualifications; therefore urges the Commission and the Member States, acting within their respective spheres of competence, to enable greater numbers of Union citizens holding professional qualifications obtained in one Member State to be admitted to a corresponding profession in another Member State and to practise that profession on the same terms as citizens of the latter Member State;
17. Calls on Member States to review their citizenship laws and explore the possibilities of making it easier for non-nationals to acquire citizenship and enjoy full rights, thereby overcoming discrimination between nationals and non-nationals, notably for Union citizens;
18. Considers that it would be desirable to encourage an exchange of experiences regarding the naturalisation systems existing in the various Member States with a view to achieving closer coordination of the eligibility criteria and procedures for Union citizenship – without encroaching on the power of individual Member States to determine the ways of acquiring and losing citizenship – and hence to reducing the instances of discrimination inherent in the different legal systems;
19. Considers that stateless persons permanently resident in Member States are in a unique position in the European Union; is concerned that some Member States impose unwarranted demands on them or demands which may not be strictly necessary in order to obtain citizenship; in this regard calls on those Member States to systematically bring about just solutions, based on the recommendations of international organisations; believes that stateless persons permanently resident in the Member States should have the right to vote in local elections;
20. Reminds the Member States, local authorities and immigrants that all the points of the Council Common Basic Principles for Immigrant Integration Policy in the European Union (14615/04) must be applied equally;
21. Considers the integration of immigrants to be a basic prerequisite for the exercise of their rights in the Member State of their residence; calls, therefore, on the Member States to give rapid and full effect to the recommendations set out in the Commission Communication of 1 September 2005 entitled 'A Common Agenda for Integration of Third-Country Nationals in the European Union' (COM(2005)0389);
22. Considers that the EU and the Member States have a shared responsibility to promote the inclusion of the Roma as Union citizens with a view to enabling the Roma people to fully benefit from the incentives provided by the EU for all initiatives aimed at promoting their rights and the inclusion of their communities, whether in the field of education, employment or civic participation;
23. Points out that Union citizenship involves duties and not only rights; draws particular attention to the duty to comply with the laws of the State in which the Union citizen concerned resides and to respect the cultures of other people;
24. Stresses that problems of language or communication skills should not be used as grounds to deny access to social rights to which an individual maybe entitled as a resident of a Member State, including the right to social benefits granted by a national or local authorities;
25. Calls on the Commission to investigate the role and behaviour of national child welfare services to ensure that the principles of equality and non-discrimination between Union citizens are respected; stresses that parents should be allowed to speak in their mother tongue to their children and that nationality or language should not be used as grounds to deny parents access to their child;
26. Re-iterates its call for Member States to respect the right of Union citizens to travel within the EU with either a valid national identity card or a valid passport and not to restrict such movement on the grounds of security or for other reasons, especially in the area of air and sea travel;

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27. Calls on Member States and local authorities to take further measures to facilitate the movement of Union citizens between Member States, especially with regard to practical issues such as issuing residence papers, work permits, the transfer of vehicle registrations, recognition of personal and vehicle insurance policies issued in another Member State, the transfer of medical records, clear rules on the reimbursement of medical expenses, among many other issues, which very often do not function properly despite efforts to harmonise them at EU level; and calls on the Commission to collect all relevant information and make it available to Union citizens;

28. Recommends that the European area of justice be completed in order to ensure that the cross-border aspects of citizenship relating to personal and family life can be effectively protected by common rules in the field of private international law; to that end, urges the Commission to develop a coherent approach and to put forward the necessary legislative proposals;

29. Calls on the Commission to make funding available for the training of Member States' local and regional civil servants who deal with intra-EU migrants in the basics of the EC legislation that applies in their respective fields, and to help administrations in answering questions concerning possible differences and conflicts between national and EC legislation; in this respect welcomes the SOLVIT online problem-solving network provided by the Commission and calls for it to be further strengthened and promoted; hopes that, by increasing human as well as financial resources, Member States will help to bolster the national SOLVIT centres; urges local and regional authorities and Member States to cooperate in exchanges of good practice and in finding effective ways of dealing with the situation of intra-Community migrants;

30. Believes that Europe Direct should be promoted better to all citizens, and recommends that an EU-level media campaign be coordinated by the Commission to that end; calls on the Commission to monitor the proliferation of websites relating to Europe Direct and SOLVIT and to focus key information and contacts on specific reference websites;

31. Calls on the Commission to develop a European Charter for Consumer Rights to provide easily accessible information to citizens on their most common problems;

32. Welcomes the Commission's 'Action plan on an integrated approach for providing Single Market Assistance Services to citizens and businesses' (SEC(2008)1882) in order to avoid fragmentation of contact points and, as stressed in the Services Directive<sup>(1)</sup>, encourages the creation of single contact points for services and goods in each Member State;

33. Reminds the Member States and local authorities that the concept of Union citizenship includes the principle of non-discrimination of all Union citizens, and not only of citizens of a particular Member State; urges the Commission to further its analysis of the situation of intra-EU migrants and to take appropriate action in order to ensure that they genuinely enjoy rights as Union citizens;

34. Points out that the right of free movement is a linchpin of Union citizenship and therefore finds it highly disturbing that no Member State has yet fully and properly implemented the Free Movement Directive;

35. Welcomes the Commission's initiative to promote knowledge of the new rules set out in the Free Movement Directive, including the publication of the 'Guide on how to get the best out of Directive 2004/38/EC', but regrets the fact that the 16 000 copies of the Guide, published in 19 languages, are too small a quantity compared with the total number of people living in the EU; calls on the Commission to ensure that this information is made widely available to local and regional authorities, which are the first source of information for many citizens and as it is at local levels where most problems and infringements of Union citizens' rights take place;

36. Stresses that the right of free movement and residence, which plays a full part in Union citizenship, has a tremendous impact on family life and women's educational and professional choices; therefore invites the Commission to take into consideration women's specific needs in this field;

<sup>(1)</sup> Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

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37. Recalls the provisions of the Free Movement Directive which give Union citizens the right to reside in another Member State, provided they are not a burden on the social assistance system; notes, however, that Member States should comply with the rulings of the European Court of Justice<sup>(1)</sup>, which have provided interpretation, for the purposes of the Directive, on the meaning of the expression 'sufficient resources';

38. Calls on the Commission to check carefully in order to ascertain that laws and practices in force in individual Member States do not violate the rights conferred on Union citizens by the EC Treaty and the Free Movement Directive, especially as regards the concepts of 'sufficient resources', 'an unreasonable burden on the social assistance system of the host Member State', 'serious grounds of public policy or public security', and 'imperative grounds of public security'; calls on the Commission, in addition, to ascertain that there are procedural safeguards operating at the practical level, together with legal protection arrangements and the possibility of appealing to the courts against removal measures; points out that any restriction on the fundamental right to free movement must be interpreted in a narrow sense;

39. Calls on the Member States, when giving effect to the right to free movement, to refrain from encumbering Union citizens and their family members with red tape that would be unwarranted to the extent that it is not expressly laid down in the Free Movement Directive and is contrary to Community law, and would impede the exercise of a right which, leaving aside the performance of administrative procedures, is provided for as such in the EC Treaty; points out to the Member States that they have a duty to facilitate completion of the administrative procedures linked to the exercise of the right of free movement;

40. Calls on the Member States to refrain from adopting legislative acts imposing penalties that would be excessively harsh or discriminatory in relation to Union citizens, such as, for example, detention in the event of removal from the territory of a host Member State, invoking an aggravating circumstance on the grounds that a Union citizen who had committed an offence had previously resided illegally in another Member State, or automatic removal of a Union citizen because he or she had been convicted of a criminal offence;

41. Warmly welcomes the Commission's intention to insert measures in the Stockholm Programme aimed at addressing the problems faced by Union citizens during their life cycle in the EU; asks the Commission to propose, within this framework, appropriate measures, including in the field of civil law, to finally implement the principle of equal treatment not only in relation to goods, capitals and services, but also in relation to persons without discrimination as listed under Article 13 of the EC Treaty, as the current situation constitutes a barrier to free movement and is contrary to the common European values of equality and non-discrimination;

42. Maintains that granting the right to vote and stand for election in local elections in the Member State of residence is a *sine qua non* for any effective integration policy;

43. Calls on the Member States to ensure that all Union citizens residing in a Member State other than their own are provided with all the necessary information regarding their right to vote at local and European elections;

44. Regrets the low number of Union citizens resident in Member States other than their own who take advantage of the right to vote or stand in either European or local elections in their place of residence; notes the practical obstacles that too often confront potential voters in the exercise of their rights; urges the Commission, Member States and local authorities, in view of the imminent 2009 European elections, to launch pan-European, effective information campaigns about the electoral rights of Union citizens and give practical advice on how to exercise them at local level;

45. Calls on Member States to launch on national and local media, including television, radio and the internet, information campaigns in official languages of the EU to inform Union citizens about their right to vote and stand in elections, as well as about registration procedures, which should be as easy as possible;

<sup>(1)</sup> Among others cases: C-424/98, *Commission v Italian Republic*, and C-184/99, *Grzelczyk*.



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46. Welcomes the Commission's move to amend Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals <sup>(1)</sup>, whereby steps are to be taken to reduce the costs to be borne by candidates and Member States;

47. Calls for the necessary reforms of the European election procedures in all Member States, with a view to making those procedures more similar and finding ways to promote active Union citizenship, and calls for appropriate information campaigns to be conducted once those reforms are completed;

48. Notes that there are significant discrepancies for Union citizens living in a Member State other than their own with respect to voting rights in national parliamentary elections in their Member State of origin; deplores the fact that many Union citizens thus find themselves disenfranchised both in their Member State of origin and in their adopted Member State; urges Member States to cooperate in order to enable voters residing outside their Member State of origin to exercise their full electoral rights in their Member State of residence, by providing a sufficient number of polling stations covering all the territory and by facilitating easier registration of voters; calls on the Member States also to adopt the necessary legal provisions to guarantee the right to vote for all Union citizens transiting a Member State other than their Member State of origin when national parliamentary elections are being held;

49. Considers that the rise and spread of political parties at European level is the most effective way to underpin the right to stand for election for a Union citizen living in one Member State and having the nationality of another; hopes, therefore, that Europe-wide parties will be strengthened, not least through greater financial support;

50. Ask the Commission, the Council and the Member States to improve the real effectiveness of Article 19 of the EC Treaty by ensuring that all Union citizens are entitled to be members of political parties in the Member State where they have their place of residence;

51. Considers that Union citizenship guarantees the same rights for all Union citizens, whether or not their place of residence is situated in the Union itself or a third country; urges the Commission to analyse the situation of Union citizens resident outside EU territory and take appropriate steps to ensure that their citizenship rights become effective;

52. Recalls that, on the basis of Article 20 of the EC Treaty, Union citizens in the territory of a third country in which the Member State of which they are a national is not represented are entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as the nationals of that Member State, and emphasises the importance of such a provision as a point of principle, insofar as it is intended to acknowledge the external dimension of Union citizenship;

53. Welcomes the presentation by the Commission of an action plan for the period 2007-2009 in its Communication of 5 December 2007 on effective consular protection in third countries: the contribution of the European Union (COM(2007)0767); calls on the Member States and the Commission to further implement the recommendations of the Commission Green Paper of 28 November 2006 on diplomatic and consular protection of Union citizens in third countries (COM(2006)0712), and those of Parliament's resolution on the same topic of 11 December 2007 <sup>(2)</sup>;

54. Calls on those Member States which have not already done so to print Article 20 of the EC Treaty inside their national passports alongside national information, as called for by the Barnier report and the Council Conclusions of 15 June 2006; calls on the Commission to provide passport-issuing offices in each of the Member States with a brochure setting out these rights and a general outline of the measures which support Article 20 of the EC Treaty; requests that the brochure be distributed to individuals who collect their new passports; calls on the Commission to set up a web page on the 'Europa' site to publish practical information on consular protection and facilitate access to Member States' travel advice notices, as called for by the Commission's 2007 Action Plan;

<sup>(1)</sup> OJ L 329, 30.12.1993, p. 34.

<sup>(2)</sup> OJ C 323 E, 18.12.2008, p. 120.

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55. Urges the Commission to set up a free European telephone number, to be shown in the passport next to Article 20 of the EC Treaty, by means of which in an emergency Union citizens can obtain details in their own language of the Member States' consulates so as to secure the assistance they require;
56. Calls on the Commission and the Council to adopt further directives and other measures to strengthen the Community acquis in the field of diplomatic and consular protection and to enact legally binding rules for the implementation of Article 20 of the EC Treaty;
57. Calls on the Union to take further measures to protect its citizens in third countries, including taking action to prevent a Union citizen being subjected to the death penalty;
58. Calls on Member States to properly comply with the obligation set out in Article 20 of the EC Treaty, and therefore to establish the necessary rules among themselves and start the international negotiations required to secure the protection of Union citizens outside the European Union, with particular attention being paid to the approval of binding protocols of action to be followed by consular services in third countries in the event of an emergency, or of a security or humanitarian crisis;
59. Welcomes the recent adoption by the Council of guidelines on the implementation of the consular Lead State concept <sup>(1)</sup> for the designation of a Lead State in the event of a major crisis and calls for a wider interpretation of Article 20 of the EC Treaty regarding the consular and diplomatic protection actually afforded to Union citizens;
60. Calls on the Commission to continue to negotiate visa-free travel to third countries on behalf of all Member States and Union citizens; notes the injustice inherent in some Union citizen being subject to visa requirements while others are able to travel under national visa waiver programmes;
61. Considers that the status of the right to petition as a fundamental right of Union citizens would, at the very least, require the Commission to give sufficient reasons for not following a recommendation by Parliament;
62. Calls on the Council and the Commission to develop closer cooperation with Parliament's Committee on Petitions and the European Ombudsman so that all Union citizens are able to exercise their rights more effectively;
63. Welcomes the fact that the European Union Agency for Fundamental Rights has been set up and the adoption of Council Decision 2007/252/EC of 19 April 2007 establishing for the period 2007-2013 the specific programme Fundamental rights and citizenship as part of the General programme Fundamental Rights and Justice <sup>(2)</sup>, the purpose of which is to promote the development of a European society founded on respect for fundamental rights, including the rights deriving from Union citizenship;
64. Calls on national parliaments to become increasingly involved in developing the area of Freedom, Security and Justice; cooperation between national parliaments and the EU institutions should facilitate the adaptation of national legislation and practices when implementing EU law, and enhance communication with citizens, making them aware of the rights attaching to the status of Union citizen;
65. Instructs its President to forward this resolution to the Council, the Commission, and to the governments and parliaments of the Member States.
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<sup>(1)</sup> OJ C 317, 12.12.2008, p. 6.

<sup>(2)</sup> OJ L 110, 27.4.2007, p. 33.

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## Bi-annual evaluation of the EU-Belarus dialogue

P6\_TA(2009)0212

### European Parliament resolution of 2 April 2009 on bi-annual evaluation of the EU-Belarus dialogue

(2010/C 137 E/04)

*The European Parliament,*

- having regard to its previous resolutions on the situation in Belarus, in particular that of 15 January 2009 on the EU strategy toward Belarus <sup>(1)</sup>,
  - having regard to the conclusions on Belarus of the General Affairs and External Relations Council of 16 March 2009 further suspending the visa-ban sanctions for Belarusian officials, including President Alexander Lukashenko, and extending the restrictive measures,
  - having regard to the Commission Communication of 3 December 2008 concerning the Eastern Partnership Initiative (COM(2008)0823),
  - having regard to the Commission statement of 21 November 2006 on the European Union's readiness to renew its relationship with Belarus and its people within the framework of the European Neighbourhood Policy (ENP),
  - having regard to Rule 103(2) of its Rules of Procedure,
- A. whereas the Council, in its above-mentioned conclusions of 16 March 2009, confirmed its readiness to deepen its relations with Belarus subject to progress made by Belarus on the path towards democracy, human rights and the rule of law, and to assist Belarus in attaining those objectives,
- B. whereas the Council, after evaluating developments in Belarus following the decision taken in October 2008 on the temporary suspension of the travel restrictions imposed on certain officials of Belarus, in accordance with the terms set out in Council Common Position 2008/844/CFSP <sup>(2)</sup>, has decided to maintain the suspension of the application of those travel restrictions for a nine-month period,
- C. whereas the Council decided to extend for one year the restrictive measures against certain Belarusian officials provided for by Common Position 2006/276/CFSP,
- D. whereas the EU continues to be concerned about the human rights situation in Belarus and the recent cases of violations in this area,
- E. whereas, in response to the positive steps taken by Belarus, the Commission has already entered into an intensified dialogue with that country in fields such as energy, the environment, customs, transport and food safety, and has confirmed its readiness to further expand the scope of those technical talks, which are beneficial for both sides, on the basis that any plans for the construction at the border with the EU of a new nuclear power station to be built on non-Western lines should not be included in those talks,
- F. whereas the Council included Belarus in its 'Eastern Partnership Initiative', which the Commission launched in its above-mentioned communication of 3 December 2008 with a view to stepping up cooperation with a number of Eastern European countries,

<sup>(1)</sup> Texts Adopted, P6\_TA(2009)0027.

<sup>(2)</sup> Council Common Position 2008/844/CFSP of 10 November 2008 amending Common Position 2006/276/CFSP concerning restrictive measures against certain officials of Belarus (OJ L 300, 11.11.2008, p. 56).



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- G. whereas the Belarusian Minister for Foreign Affairs, Syarhei Martynau, has declared that 'Belarus has a positive view on participation in the Eastern Partnership Initiative', adding that Belarus intends to participate in that initiative,
- H. whereas the Committee to Protect Journalists has called on the Belarusian authorities to renew the accreditation of Andrzej Poczobut, a local correspondent for Poland's largest daily, *Gazeta Wyborcza*, and to investigate recent harassment of him and his family in the western Belarusian city of Hrodna, due to his criticism of the policies of the government; whereas on 17 March 2009 Andrzej Poczobut was fined 148 EUR for reporting on the meeting of the Union of Poles in Belarus,
1. Supports the decision of the Council to extend for one year the restrictive measures against certain Belarusian officials and at the same time to maintain the suspension of the application of travel restrictions imposed on certain officials of Belarus for a nine-month period;
  2. Continues to be concerned about the human rights situation in Belarus and the recent cases of violations in this area; looks forward to the launching of a human rights dialogue with Belarus in the near future;
  3. Welcomes the increased high-level EU-Belarus dialogue, including bilateral contacts, and the intensified technical cooperation initiated by the Commission, as a way of building mutual understanding and providing an opportunity to address the parties' concerns and issues of common interest;
  4. Believes that intensification of the political dialogue between the EU and Belarus must be conditional on the lifting of restrictions on freedom and cessation of violence against participants in opposition protests and human rights activists; calls, in this context, for the immediate release of entrepreneurs Mikalai Autukhovich, Yury Liavonau and Uladzimir Asipenka and youth opposition activist Artsiom Dubski; as well as a review of the 'restricted freedom' sentences imposed on 11 persons who participated in a demonstration which took place in January 2008;
  5. Welcomes and further encourages the continuation of Belarus's cooperation with the Office for Democratic Institutions and Human Rights at the Organization for Security and Co-operation in Europe (OSCE/ODIHR) on electoral legislation;
  6. Insists that the Belarusian democratic opposition and civil society must be included in the dialogue between the EU and Belarus;
  7. Calls on the Government of Belarus to use the next nine months to demonstrate substantial progress in the following areas:
    - reform of Belarus's electoral legislation to provide guaranteed representation of opposition members on election commissions at all levels and to ensure the transparency and accountability of the vote count;
    - providing equal rights to all media outlets by lifting a ban on dissemination of independent print media through state-owned distribution networks of 'Sayuzdruk' (system of kiosks) and the Belarusian state postal service 'Belposhta'; repealing Articles 367, 368, 369 and 369-1 of the Belarus Criminal Code, which are often misused to persecute journalists for their professional activity; simplifying the procedure for obtaining accreditation for all journalists, including official representatives of foreign media outlets;
    - guaranteeing freedom of association and assembly by repealing Article 193-1 of the Belarus Criminal Code providing for criminal responsibility for activity on behalf of unregistered public associations, political parties and foundations; safeguarding freedom of religion;
    - guaranteeing political rights and freedoms by discontinuing the practice of politically motivated dismissals from jobs and universities; stopping persecution for avoiding military service of students expelled from universities for their civic stance; reviewing the recent cases of the forcible army conscription of several young activists, such as Franak Viačorka, Ivan Šyla and Zmiter Fedaruk, which is tantamount to state-practised hostage taking;

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8. Calls on the Government of Belarus to immediately establish a moratorium on all death sentences and executions with a view to abolishing the death penalty (as provided for by UN General Assembly Resolution 62/149 of 18 December 2007 on a moratorium on the use of the death penalty), commute without delay the sentences of all prisoners currently on death row to terms of imprisonment, bring domestic legislation into line with the country's obligations under international human rights treaties and ensure that the internationally recognised standards for fair trials are rigorously respected;
9. Calls on the Belarusian authorities to recognise the Union of Poles in Belarus led by Angelika Borys, who was re-elected as its Chair at the Congress of the Union of Poles on 15 March 2009;
10. Calls on the Council and the Commission, should Belarus fulfil the above-mentioned criteria during the period of nine months, to consider lifting the travel ban on a permanent basis, as well as taking measures to facilitate economic and social progress and speeding up the process of Belarus's reintegration into the European family of democratic nations;
11. Calls on the Council and the Commission to take further steps to liberalise visa procedures for Belarusian citizens, as such action is crucial to fulfilling the main goal of EU policy towards Belarus, namely making Belarus part of European and regional processes and rendering the democratisation process in the country irreversible; urges the Council and the Commission, in this context, to consider the scope for reducing the cost of visas for Belarusian citizens entering the Schengen Area and simplifying the procedure for obtaining visas;
12. Calls on the Commission to make full and effective use of the possibilities to support civil society and democratic developments in Belarus via the European Instrument for Democracy and Human Rights <sup>(1)</sup> (EIDHR); urges the Commission to regularly and fully inform Parliament how the funding from the EIDHR is spent;
13. Calls on the Commission to grant financial support to the independent Belarusian television channel Belsat, and to urge the Belarusian Government to officially register Belsat in Belarus; calls on the Belarusian Government, as a sign of goodwill and positive change, to enable the Belarusian 'European Humanities University' (EHU) in exile in Vilnius (Lithuania) to return legally to Belarus on the basis of genuine guarantees that it will be able to operate freely and re-establish itself under suitable conditions for its future development in Minsk, in particular by allowing the EHU to re-establish its library in Minsk during the course of 2009 by providing the premises and creating the conditions to allow the extensive collections in Belarusian, Russian, English, German and French to be open and accessible to all;
14. Calls on the Council and the Commission to consider measures to improve the business climate, trade, investment, energy and transport infrastructure and cross-border cooperation between the EU and Belarus, so as to contribute to the well-being and prosperity of the citizens of Belarus and enhance their ability to communicate with, and freely travel to, the EU;
15. Instructs its President to forward this resolution to the Council, the Commission, the parliaments and governments of the Member States, the Secretary-General of the United Nations, the Parliamentary Assemblies of the OSCE and the Council of Europe, the Secretariat of the Commonwealth of Independent States and the Parliament and Government of Belarus.

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<sup>(1)</sup> Regulation (EC) No 1889/2006 of the European Parliament and of the Council of 20 December 2006 on establishing a financing instrument for the promotion of democracy and human rights worldwide (OJ L 386, 29.12.2006, p. 1).

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**European conscience and totalitarianism**

P6\_TA(2009)0213

**European Parliament resolution of 2 April 2009 on European conscience and totalitarianism**

(2010/C 137 E/05)

*The European Parliament,*

- having regard to the United Nations Universal Declaration of Human Rights,
  - having regard to United Nations General Assembly Resolution 260(III)A of 9 December 1948 on genocide,
  - having regard to Articles 6 and 7 of the Treaty on European Union,
  - having regard to the Charter of Fundamental Rights of the European Union,
  - having regard to Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law <sup>(1)</sup>,
  - having regard to Resolution 1481 of the Parliamentary Assembly of the Council of Europe of 25 January 2006 on the need for international condemnation of the crimes of totalitarian Communist regimes,
  - having regard to its declaration of 23 September 2008 on the proclamation of 23 August as European Day of Remembrance for Victims of Stalinism and Nazism <sup>(2)</sup>,
  - having regard to its many previous resolutions on democracy and respect for fundamental rights and freedoms, including that of 12 May 2005 on the 60th anniversary of the end of the Second World War in Europe on 8 May 1945 <sup>(3)</sup>, that of 23 October 2008 on the commemoration of the Holodomor <sup>(4)</sup>, and that of 15 January 2009 on Srebrenica <sup>(5)</sup>,
  - having regard to the Truth and Justice Commissions established in various parts of the world, which have helped those who have lived under numerous former authoritarian and totalitarian regimes to overcome their differences and achieve reconciliation,
  - having regard to the statements made by its President and the political groups on 4 July 2006, 70 years after General Franco's coup d'état in Spain,
  - having regard to Rule 103(4) of its Rules of Procedure,
- A. whereas historians agree that fully objective interpretations of historical facts are not possible and objective historical narratives do not exist; whereas, nevertheless, professional historians use scientific tools to study the past, and try to be as impartial as possible,
- B. whereas no political body or political party has a monopoly on interpreting history, and such bodies and parties cannot claim to be objective,
- C. whereas official political interpretations of historical facts should not be imposed by means of majority decisions of parliaments; whereas a parliament cannot legislate on the past,

<sup>(1)</sup> OJ L 328, 6.12.2008, p. 55.<sup>(2)</sup> Texts adopted, P6\_TA(2008)0439.<sup>(3)</sup> OJ C 92 E, 20.4.2006, p. 392.<sup>(4)</sup> Texts adopted, P6\_TA(2008)0523.<sup>(5)</sup> Texts adopted, P6\_TA(2009)0028.

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- D. whereas a core objective of the European integration process is to ensure respect for fundamental rights and the rule of law in the future, and whereas appropriate mechanisms for achieving this goal have been provided for in Articles 6 and 7 of the Treaty on European Union,
- E. whereas misinterpretations of history can fuel exclusivist policies and thereby incite hatred and racism,
- F. whereas the memories of Europe's tragic past must be kept alive in order to honour the victims, condemn the perpetrators and lay the foundations for reconciliation based on truth and remembrance,
- G. whereas millions of victims were deported, imprisoned, tortured and murdered by totalitarian and authoritarian regimes during the 20th century in Europe; whereas the uniqueness of the Holocaust must nevertheless be acknowledged,
- H. whereas the dominant historical experience of Western Europe was Nazism, and whereas Central and Eastern European countries have experienced both Communism and Nazism; whereas understanding has to be promoted in relation to the double legacy of dictatorship borne by these countries,
- I. whereas from the outset European integration has been a response to the suffering inflicted by two world wars and the Nazi tyranny that led to the Holocaust and to the expansion of totalitarian and undemocratic Communist regimes in Central and Eastern Europe, as well as a way of overcoming deep divisions and hostility in Europe through cooperation and integration and of ending war and securing democracy in Europe,
- J. whereas the process of European integration has been successful and has now led to a European Union that encompasses the countries of Central and Eastern Europe which lived under Communist regimes from the end of World War II until the early 1990s, and whereas the earlier accessions of Greece, Spain and Portugal, which suffered under long-lasting fascist regimes, helped secure democracy in the south of Europe,
- K. whereas Europe will not be united unless it is able to form a common view of its history, recognises Nazism, Stalinism and fascist and Communist regimes as a common legacy and brings about an honest and thorough debate on their crimes in the past century,
- L. whereas in 2009 a reunited Europe will celebrate the 20th anniversary of the collapse of the Communist dictatorships in Central and Eastern Europe and the fall of the Berlin Wall, which should provide both an opportunity to enhance awareness of the past and recognise the role of democratic citizens' initiatives, and an incentive to strengthen feelings of togetherness and cohesion,
- M. whereas it is also important to remember those who actively opposed totalitarian rule and who should take their place in the consciousness of Europeans as the heroes of the totalitarian age because of their dedication, faithfulness to ideals, honour and courage,
- N. whereas from the perspective of the victims it is immaterial which regime deprived them of their liberty or tortured or murdered them for whatever reason,
  - 1. Expresses respect for all victims of totalitarian and undemocratic regimes in Europe and pays tribute to those who fought against tyranny and oppression;
  - 2. Renews its commitment to a peaceful and prosperous Europe founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights;
  - 3. Underlines the importance of keeping the memories of the past alive, because there can be no reconciliation without truth and remembrance; reconfirms its united stand against all totalitarian rule from whatever ideological background;
  - 4. Recalls that the most recent crimes against humanity and acts of genocide in Europe were still taking place in July 1995 and that constant vigilance is needed to fight undemocratic, xenophobic, authoritarian and totalitarian ideas and tendencies;

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5. Underlines that, in order to strengthen European awareness of crimes committed by totalitarian and undemocratic regimes, documentation of, and accounts testifying to, Europe's troubled past must be supported, as there can be no reconciliation without remembrance;
  6. Regrets that, 20 years after the collapse of the Communist dictatorships in Central and Eastern Europe, access to documents that are of personal relevance or needed for scientific research is still unduly restricted in some Member States; calls for a genuine effort in all Member States towards opening up archives, including those of the former internal security services, secret police and intelligence agencies, although steps must be taken to ensure that this process is not abused for political purposes;
  7. Condemns strongly and unequivocally all crimes against humanity and the massive human rights violations committed by all totalitarian and authoritarian regimes; extends to the victims of these crimes and their family members its sympathy, understanding and recognition of their suffering;
  8. Declares that European integration as a model of peace and reconciliation represents a free choice by the peoples of Europe to commit to a shared future, and that the European Union has a particular responsibility to promote and safeguard democracy, respect for human rights and the rule of law, both inside and outside the European Union;
  9. Calls on the Commission and the Member States to make further efforts to strengthen the teaching of European history and to underline the historic achievement of European integration and the stark contrast between the tragic past and the peaceful and democratic social order in today's European Union;
  10. Believes that appropriate preservation of historical memory, a comprehensive reassessment of European history and Europe-wide recognition of all historical aspects of modern Europe will strengthen European integration;
  11. Calls in this connection on the Council and the Commission to support and defend the activities of non-governmental organisations, such as Memorial in the Russian Federation, that are actively engaged in researching and collecting documents related to the crimes committed during the Stalinist period;
  12. Reiterates its consistent support for strengthened international justice;
  13. Calls for the establishment of a Platform of European Memory and Conscience to provide support for networking and cooperation among national research institutes specialising in the subject of totalitarian history, and for the creation of a pan-European documentation centre/memorial for the victims of all totalitarian regimes;
  14. Calls for a strengthening of the existing relevant financial instruments with a view to providing support for professional historical research on the issues outlined above;
  15. Calls for the proclamation of 23 August as a Europe-wide Day of Remembrance for the victims of all totalitarian and authoritarian regimes, to be commemorated with dignity and impartiality;
  16. Is convinced that the ultimate goal of disclosure and assessment of the crimes committed by the Communist totalitarian regimes is reconciliation, which can be achieved by admitting responsibility, asking for forgiveness and fostering moral renewal;
  17. Instructs its President to forward this resolution to the Council, the Commission, the parliaments of the Member States, the governments and parliaments of the candidate countries, the governments and parliaments of the countries associated with the European Union, and the governments and parliaments of the Members of the Council of Europe.
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Thursday 2 April 2009

## **Role of culture in the development of European regions**

P6\_TA(2009)0214

### **European Parliament resolution of 2 April 2009 on the role of culture in the development of European regions**

(2010/C 137 E/06)

*The European Parliament,*

- having regard to the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions,
- having regard to the Council Conclusions of 24 May 2007 on the contribution of the cultural and creative sectors to the achievement of the Lisbon objectives <sup>(1)</sup>,
- having regard to Decision No 1855/2006/EC of the European Parliament and of the Council of 12 December 2006 establishing the Culture Programme (2007 to 2013) <sup>(2)</sup>,
- having regard to its resolution of 10 April 2008 on cultural industries in Europe <sup>(3)</sup>,
- having regard to its resolution of 10 April 2008 on a European agenda for culture in a globalising world <sup>(4)</sup>,
- having regard to Rule 108(5) of its Rules of Procedure,
- A. whereas the cultural soul of Europe is becoming increasingly important as a means of bringing European citizens together in a manner which respects differing cultural and linguistic identities,
- B. whereas the cultures of Europe are strategic factors in Europe's development at local, regional and national levels, as well as at the level of its central European institutions,
- C. whereas cities and regions are becoming European players as they share the European idea and contribute to the development of the European Union,
- D. whereas cultural projects based on civil-society initiatives appear to be effective in strengthening and developing the regions,
- E. whereas regional conferences are an excellent way for civil society to put forward their projects and proposals, exchange best practices and conduct dialogue between responsible parties,

1. Stresses that regional and local development strategies that incorporate culture, creativity and the arts contribute very much to improving quality of life in European regions and cities by fostering cultural diversity, democracy, participation and intercultural dialogue;

2. Calls on the Commission to present a Green Paper with a possible range of measures for contemporary cultural activities aimed at strengthening cultural development in European regions;

<sup>(1)</sup> OJ C 311, 21.12.2007, p. 7.

<sup>(2)</sup> OJ L 372, 27.12.2006, p. 1.

<sup>(3)</sup> Text adopted, P6\_TA(2008)0123.

<sup>(4)</sup> Text adopted, P6\_TA(2008)0124.

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3. Calls on the Commission together with regional authorities and local civil society to support regional conferences;
  4. Calls for action and awareness campaigns about the role of cultural projects for regional development;
  5. Calls on the parties concerned to work towards speedy and efficient implementation of such projects;
  6. Expects the Commission at the earliest opportunity to present to Parliament the study on the influence of culture at regional and local levels, together with the conclusions and actions which the Commission intends to draw from it;
  7. Instructs its President to forward this resolution to the Commission and the Committee of the Regions.
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### **Recommendation to the Council on the new EU-Russia agreement**

P6\_TA(2009)0215

#### **European Parliament recommendation to the Council of 2 April 2009 on the new EU-Russia agreement (2008/2104(INI))**

(2010/C 137 E/07)

*The European Parliament,*

- having regard to the proposal for a recommendation to the Council by Janusz Onyszkiewicz on behalf of the ALDE Group on relations between the EU and Russia (B6-0373/2007),
- having regard to the Partnership and Cooperation Agreement (PCA) between the European Communities and their Member States, of the one part, and the Russian Federation, of the other part <sup>(1)</sup>, which entered into force on 1 December 1997 and which would have expired in 2007 had it not been automatically prolonged,
- having regard to the Council decision of 26 May 2008 to open negotiations with the Russian Federation on a new agreement and the resumption of those negotiations in December 2008,
- having regard to the objective of the EU and Russia, set out in the joint statement issued following the St Petersburg Summit held on 31 May 2003, to set up a common economic space, a common space of freedom, security and justice, a space of cooperation in the field of external security and a space of research and education, including cultural aspects and subsequently adopted road maps,
- having regard to the agreement between the European Community and the Russian Federation of 25 May 2006 on the facilitation of the issuance of visas to the citizens of the European Union and the Russian Federation <sup>(2)</sup>,

<sup>(1)</sup> OJ L 327, 28.11.1997, p. 1.

<sup>(2)</sup> OJ L 129, 17.5.2007, p. 27.



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- having regard to the European Energy Charter signed on 17 December 1991 and the subsequent Energy Charter Treaty (ECT), which was opened for signature on 17 December 1994 and entered into force in April 1998, and which is legally binding between all Contracting Parties that have ratified the ECT and those which did not opt out of applying the ECT provisionally pending its entry into force, pursuant to Article 45(2), and to the EU-Russia Energy Dialogue instituted at the sixth EU-Russia Summit held in Paris on 30 October 2000,
- having regard to the Protocol on Strategic Environmental Assessment to the 1991 UN/ECE Espoo Convention on Environmental Impact Assessment in a Transboundary Context ('Espoo Convention'),
- having regard to its resolution of 8 July 2008 on the environmental impact of the planned gas pipeline in the Baltic Sea to link up Russia and Germany <sup>(1)</sup>,
- having regard to the unprecedented disruption of supply of Russian gas to the European Union in January 2009,
- having regard to the EU-Russia human rights consultations and their lack of tangible results,
- having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the protocols thereto,
- having regard to ongoing negotiations on the accession of the Russian Federation to the World Trade Organization (WTO),
- having regard to the many credible reports by Russian and international non-governmental organisations (NGOs) on the continuing grave violations of human rights in Russia, the judgments of the European Court of Human Rights relating to Chechnya and the many such cases pending before the Court,
- having regard to its previous resolutions on the Russian Federation, including in particular those of 18 December 2008 on attacks on human rights defenders in Russia and the Anna Politkovskaya murder trial <sup>(2)</sup>, of 13 March 2008 on Russia <sup>(3)</sup>, of 10 May 2007 on the EU-Russia Summit to be held in Samara on 18 May 2007 <sup>(4)</sup>, of 19 June 2008 on the EU-Russia Summit of 26-27 June 2008 in Khanty-Mansiysk <sup>(5)</sup>, of 25 October 2006 on EU-Russia relations following the murder of the Russian journalist Anna Politkovskaya <sup>(6)</sup>, of 14 November 2007 on the EU-Russia Summit <sup>(7)</sup> and of 13 December 2006 on the EU-Russia Summit in Helsinki on 24 November 2006 <sup>(8)</sup>,
- having regard to its resolution of 26 May 2005 on EU-Russia relations <sup>(9)</sup>,
- having regard to its resolution of 19 June 2007 on EU economic and trade relations with Russia <sup>(10)</sup>, which states that 'the human rights situation in Russia should be an integral part of the EU-Russia political agenda' and that 'extensive economic cooperation between Russia and the EU must be based on high standards of democracy and free market principles',
- having regard to its resolution of 3 September 2008 on the situation in Georgia <sup>(11)</sup>,

<sup>(1)</sup> Texts adopted, P6\_TA(2008)0336.

<sup>(2)</sup> Texts adopted, P6\_TA(2008)0642.

<sup>(3)</sup> Texts adopted, P6\_TA(2008)0105.

<sup>(4)</sup> OJ C 76 E, 27.3.2008, p. 95.

<sup>(5)</sup> Texts adopted, P6\_TA(2008)0309.

<sup>(6)</sup> OJ C 313 E, 20.12.2006, p. 271.

<sup>(7)</sup> OJ C 282 E, 6.11.2008, p. 329.

<sup>(8)</sup> OJ C 317 E, 23.12.2006, p. 474.

<sup>(9)</sup> OJ C 117 E, 18.5.2006, p. 235.

<sup>(10)</sup> OJ C 146 E, 12.6.2008, p. 95.

<sup>(11)</sup> Texts adopted, P6\_TA(2008)0396.



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- having regard to its resolution of 26 September 2007 on towards a common European foreign policy on energy <sup>(1)</sup>,
  - having regard to its resolutions of 17 January 2008 on a Black Sea Regional Policy Approach <sup>(2)</sup> and on a more effective EU policy for the South Caucasus: from promises to actions <sup>(3)</sup>,
  - having regard to the joint statement of the EU-Russia Permanent Partnership Council on Freedom, Security and Justice of 22 November 2007,
  - having regard to the joint statement by the Parliamentary Assembly of the Council of Europe and the OSCE Parliamentary Assembly on the Russian Duma elections held on 2 December 2007,
  - having regard to Rule 114(3) and Rule 83(5) of its Rules of Procedure,
  - having regard to the report of the Committee on Foreign Affairs and the opinions of the Committee on International Trade and the Committee on Industry, Research and Energy (A6-0140/2009),
- A. whereas EU relations with Russia are of crucial importance for the purposes of pragmatic cooperation; whereas Russia is a permanent member of the UN Security Council, a member of the G8, the third largest trading partner of the EU, the fourth largest trading partner of the Eurozone and an essential energy supplier to the EU; whereas the EU shares with Russia not only economic and trade interests but also an objective to act in the international arena, as well as responsibility for global issues and issues concerning the common European neighbourhood; whereas enhanced cooperation and good-neighbourly relations between the EU and Russia should be based on mutual trust and common values of democracy, respect for human rights and the rule of law as well as on cooperation on international issues, and are therefore of key importance to the stability, security and prosperity of the whole of Europe; whereas EU relations with Russia should be based on mutual respect but also on the respect by each of the parties of the sovereignty of nations in their neighbourhood,
- B. whereas the EU is based on common values, such as democracy, respect for human rights and the rule of law, and whereas full respect for these values must be one of the foremost priorities in pursuing enhanced cooperation with any third state,
- C. whereas cooperation between the EU and Russia is beneficial for international stability; whereas, in addition, Russia has a responsibility to contribute to financial and political stability and a sense of security in Europe and in the world, in particular by adopting and maintaining a responsible and peaceful approach to the EU-Russia common neighbourhood; whereas the EU already engages with Russia on Afghanistan, the Middle East and the Balkans and in the UN and the Organization for Security and Co-operation in Europe (OSCE) in developing common views and approaches on other key security issues, such as nuclear proliferation, arms control and disarmament, the fight against terrorism, drug trafficking and organised crime, climate change and the global economic and financial crisis,
- D. whereas the declarations of the new US administration, particularly by the Vice President Joe Biden and the Secretary of State Secretary Hillary Clinton, concerning the policy towards Russia, show a willingness within a new and open US policy to cooperate for a more stable and secure world,

<sup>(1)</sup> OJ C 219 E, 28.8.2008, p. 206.

<sup>(2)</sup> OJ C 41 E, 19.2.2009, p. 64.

<sup>(3)</sup> OJ C 41 E, 19.2.2009, p. 53.

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- E. whereas Russia's disproportionate counter-attack, triggered by the Georgian troops entering South Ossetia and extended to the other Georgian territories with the use of armour and air power, as well as the unprovoked military action in Abkhazia, including attacks on and the occupation of Georgian seaports, followed by the recognition of the two break-away enclaves, South Ossetia and Abkhazia, puts a question mark on Russia's readiness to build, together with the EU, a common space of security in Europe; whereas the further development of the EU's partnership with Russia needs to include a significant dialogue on security, based on the commitments of both partners to their shared values, respect for international law and territorial integrity and commitment to and obligations under the Helsinki Charter,
- F. whereas the negotiations on a new agreement aimed at enhancing cooperation between the EU and the Russian Federation in no way legitimise the current status quo in Georgia, while the obligation for Russia to implement fully the agreements signed on 12 August and 8 September 2008 with regard to the conflict in South Ossetia and Abkhazia remains valid, since its compliance with those agreements should be a *sine qua non* for the successful completion of the talks, which should include a renunciation by all parties of the use of force against neighbouring countries,
- G. whereas, particularly after the events in Georgia, the parties' positions on Kosovo and the common neighbourhood remain farther apart than ever,
- H. whereas the conclusion of an agreement on future cooperation remains of the utmost importance for further development and intensification of cooperation between the two sides; whereas the EU's policy towards Russia must be based on unity and solidarity and whereas the EU should have a common approach and speak with one voice; whereas the EU Member States should inform and consult in due time with the other Member States potentially concerned by bilateral agreements or disputes with Russia,
- I. whereas the new comprehensive agreement designed to replace the current PCA must represent an improvement in quality and reflect the whole breadth of the cooperation, the new realities of the 21st century and compliance with the principles of international relations and respect for democratic norms and human rights,
- J. whereas the Treaty on Conventional Armed Forces in Europe (CFE), signed by 16 NATO members and 6 Warsaw Pact countries in 1990 and amended in 1999, is the most significant disarmament agreement in history where conventional weapons are concerned; whereas this Treaty has been ratified by Russia, Belarus, and Ukraine, but has been shelved by NATO; whereas Russia has since suspended the Treaty,
- K. whereas the most recent parliamentary and presidential elections in Russia were conducted in conditions falling far short of European standards as regards access for international election monitors, the ability of opposition parties to organise and field candidates, the fairness and independence of the media and the neutrality of public bodies, leading to serious departures from Russia's obligations as a member of the Council of Europe and the OSCE,
- L. whereas the Russian Federation is a member of the Council of Europe and thus has committed itself to the objectives of the Council, which are, in particular, to promote democracy and respect for human rights and to consolidate democracy and stability in Europe; whereas the EU should strongly defend the principle that respect for the rule of law and existing commitments in that organisation is vital to the success of the EU-Russia partnership,
- M. whereas numerous reports by NGOs and independent experts show that the 2006 law on NGOs and other measures taken by the Russian Government, including the anti-extremism legislation and the extension of State control over significant sections of the media, severely undermine freedom of expression and hamper human rights and civil society activities in Russia,
- N. whereas the continued incarceration of political prisoners and the treatment of human rights defenders contradict the commitment of the Russian Federation to strengthening the rule of law in Russia and ending 'legal nihilism',

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- O. whereas the Parliamentary Assembly of the Council of Europe and a number of independent human rights organisations have raised serious questions about standards of justice in Russia, including the lack of judicial independence, the denial of fair trials to defendants in politically controversial cases, the harassment and persecution of defence lawyers and the return of the trial and detention of political prisoners within the Russian penal system,
- P. whereas the Russian Federation has resisted taking effective action to ensure an end to continuing abuses and impunity for crimes, despite the fact that the European Court of Human Rights has, in a growing number of judgments, found Russia responsible for serious systemic human rights abuses, including extrajudicial executions, torture and enforced disappearances,
- Q. whereas the underlying principles governing economic and trade relations between the EU and the Russian Federation should be reciprocity, sustainability, transparency, predictability, reliability, non-discrimination and good governance; whereas the new agreement should be legally binding and should provide for clear dispute-settlement mechanisms,
- R. whereas the recent crisis in gas supplies to the European Union, which left millions of citizens in Bulgaria, Slovakia and elsewhere in the EU without heating and hot water in freezing winter temperatures, raises serious concerns over the reliability of Russian energy supplies,
- S. whereas, in terms of energy security, relations between the EU and Russia offer great potential for positive and constructive mutual interdependence, provided that the partnership is based on the principle of non-discrimination and fair treatment, and on equal market conditions, as provided for in the ECT; whereas the recent gas crisis proved the need for the adoption of, and compliance with, a set of rules based, as a minimum, on the current ECT; whereas a secure energy relationship between the EU and Russia equally rests on transparency of energy trading in transit countries; whereas Russia's energy policies in practice have featured examples of monopolistic and coercive abuse, particularly the denial of third-country transit rights, supply interruptions and the violation of property rights,
- T. whereas the Brussels European Council of 15-16 June 2006 recommended that the negotiation of the European Energy Charter Transit Protocol be concluded, that ratification of the ECT by all signatories to the Charter be secured and that the Commission be invited, especially in view of the recent gas crisis, to set out elements for an agreement with Russia on energy completing the existing and binding PCA or within the framework of the successor to the PCA; whereas the ECT is already legally binding on all EU Member States and on Russia as a signatory pursuant to Article 45,
- U. whereas close collaboration in the field of energy policy and the definition of a long-term energy strategy are preconditions for balanced development of the EU and Russian economies alike,
- V. whereas the EU has often failed to speak with a common voice in its relations with Russia; whereas a functioning mechanism should exist within the Council, under the responsibility of the High Representative, which would enable Member States to consult each other sufficiently in advance on every bilateral issue with Russia which could have repercussions on other Member States and the EU as a whole,
- W. whereas the ongoing economic crisis that is deeply affecting both Russia and the EU offers an opportunity for a new start for bilateral relations based on a better and franker mutual understanding that avoids the suspicions and the shortfalls of the past and provides the basis for the definition and enhancement of real shared common values,

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1. Addresses the following recommendations to the Council and the Commission and asks them to take them into account when pursuing the negotiations:
  - (a) continue to insist on a broad, wide-ranging and legally binding agreement based on a shared commitment to human rights, covering the whole range of cooperation between the parties and representing a step up from the current PCA, both in terms of the depth of the commitments and the subjects covered; insist that the agreement should comprise enforcement mechanisms for its relevant parts;
  - (b) insist on the fact that the violation by Russia of the sovereignty and territorial integrity of Georgia and its role in the gas dispute at the beginning of 2009 have seriously endangered relations between the EU and Russia and the negotiations on the new agreement;
  - (c) insist that the EU's relationship with Russia must be based on respect for the rule of international law and all binding agreements and treaties to which Russia and EU Member States adhere, including the UN Charter, the ECHR and the ECT, as well as the rules and commitments incumbent on members of the OSCE and Council of Europe;
  - (d) insist on the fact that a close partnership, enhanced cooperation and good neighbourly relations between the European Union and Russia, as well as the new policy of the US administration towards Russia, can create a stable foundation and a precondition for stability, security and prosperity in Europe and worldwide; in this framework, welcome the declarations of the US administration concerning the great potential for cooperation with Russia;
  - (e) put in place a consultation mechanism, under the responsibility of the High Representative, which would enable Member States to consult each other sufficiently in advance on every bilateral issue – whether an agreement or a dispute – with Russia which could have repercussions on other Member States and the EU as a whole, thereby allowing for the adoption by the EU of a position which is as coherent as possible by ensuring that the concerns of every Member State are fully taken into account and preventing any one Member State from blocking the negotiations at a later stage;
  - (f) insist on reinforcing the role of the Parliamentary Cooperation Committee in the new agreement, so as to strengthen the parliamentary dimension of the cooperation between the EU and Russia;
  - (g) reiterate the commitments agreed upon at international level by both the EU Member States and Russia, notably as members of the Council of Europe and the OSCE, and raise with the Russian Government concerns about the human rights situation and the shrinking space for Russia's civil society, urging it to uphold freedom of expression and association by bringing legislation regulating civil society into line with Russia's European and international commitments, to take prompt and effective steps to foster a favourable working climate for human rights organisations and independent charitable organisations engaged in the promotion of cultural links between Russia and EU Member States, and to stop intimidation and harassment of human rights defenders and refrain from harsh administrative measures against those organisations;
  - (h) call on the Russian Government to fully respect media freedom and guarantee the enjoyment by independent media of political and economic conditions enabling them to function normally; urge the Russian Government to put an end to the continuous violence and persecution perpetrated against journalists;
  - (i) recall President Medvedev's public commitment to strengthening the rule of law in Russia and raise concerns over the independence of Russia's judiciary and legal system;
  - (j) take the view that the regular six-monthly EU-Russia human rights consultation has failed to produce any tangible results since its establishment in 2005 and needs to be revised, in order to allow for a substantial and result-oriented dialogue on human and minority rights issues in both Russia and the EU and on EU-Russian cooperation on human rights issues in international forums;

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- (k) insist, therefore, on a thorough overhaul of the EU-Russia human rights consultations, including the creation of a formal role for independent NGOs from Russia and the EU, the involvement of officials from all relevant departments of the Russian Government and an end to the issuing of separate communiqués by the Russian Government;
- (l) appeal to the authorities of the Russian Federation to guarantee the existence and sustainable development of the traditional lifestyle, culture and language of indigenous people living within its borders;
- (m) urge the Russian Government to implement fully the decisions of the European Court of Human Rights, providing an opportunity to promote accountability for past abuses and ensure an end to ongoing violations;
- (n) express strong concern at the situation in Chechnya, where Kadirov's regime has failed to bring peace and reconciliation and on the contrary has imposed fear and oppression that eroded civil society and suppressed any open and democratic voice, and call for a real political settlement;
- (o) stress that the programme for the support of Russian compatriots, supported by the Russian authorities, should not be misused as an instrument aimed at reinforcing political influence in certain EU Member States;
- (p) continue to maintain support for Russia's accession to the WTO and support the further opening-up of the Russian economy; regard full compliance by Russia with the WTO rules as a necessary precondition and a minimum standard for the creation of a free-trade zone between the EU and Russia, which continues to be a long-term objective;
- (q) while welcoming the recent changes, call for further improvements to be made in legislation and law enforcement as regards the protection of intellectual, industrial and commercial property rights in order to increase competitiveness and make the investment climate attractive by approximating regulatory systems with the highest international standards and norms; urge the Russian authorities, ahead of and preceding Russia's forthcoming membership of the WTO, to align Part IV of Russia's Civil Code on Intellectual Property Rights and relevant procedural enforcement rules with WTO rules and international agreements, particularly the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and to ensure full implementation thereof, so that counterfeiting and piracy can be effectively combated;
- (r) insist that the ECT, as an existing treaty which is legally binding on Russia and all EU Member States, should be the basis for relations in the field of energy and that the principles of the ECT and the Transit Protocol thereto should be incorporated in the new agreement, while reiterating its call on Russia to strengthen its commitment to a rules-based approach by ratifying the ECT and signing and ratifying the Transit Protocol, bearing in mind Parliament's opinion that the partners should be free to negotiate wording that goes beyond that of the ECT, as to the depth of cooperation and the areas covered by it, but that the agreement should in no circumstances be less comprehensive than that already subscribed to by the parties within the framework of the current PCA;
- (s) within the framework of the negotiations for the new agreement, finalise negotiations on the Transit Protocol and call on Russia to sign it in order to put in place a legal framework governing the transit of energy supplies between the parties which follows on from that already in place under the ECT;
- (t) underline the need for proper environmental impact assessments for all energy-related infrastructure projects, in order to guarantee that international standards of environmental protection are met; in this regard, urge the Russian Federation to ratify the Espoo Convention and the protocol thereto on Strategic Environmental Assessment;
- (u) call for a strengthening of the efficiency and crisis-response capacity of the EU-Russia energy dialogue, for increased transparency, reciprocity and security of investment and for a consequent enhancement of security of energy supply, and underline the need to establish mechanisms for a transparent rules-based system and dispute-settlement mechanism in the field of energy;

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- (v) draw attention to the dispute-settlement mechanism contained in the ECT, already signed by Russia and Ukraine;
- (w) establish a clear code of conduct governing relations between the EU, Russia and the countries of the shared neighbourhood, including provisions relating to respect for the sovereign independence of all European states, a commitment to the peaceful settlement of disputes and a determination to resolve frozen conflicts;
- (x) upgrade the existing political dialogue so as to encourage discussion of 'hard security issues', which are often at the core of the disagreements between the EU and Russia but which indubitably affect European and global security, stressing the need for multilateral arms control and reduction, as well as for non-proliferation regimes;
- (y) call on the Russian Government to make – together with the EU and the other members of the Contact Group for Kosovo – a positive contribution to finding a sustainable political solution for the future of Kosovo and for the further enhancement of the stability of the Western Balkans;
- (z) call on the Russian Government to demonstrate its commitment to resolving in a constructive and peaceful manner, together with Georgia and the EU, the 'modalities of security and stability in Abkhazia and South Ossetia' as agreed in the agreement of 12 August 2008; call on the Russian Government to provide tangible assurances that Russia will not resort to the use of force against any of its neighbours;
- (aa) raise concerns with the Russian Government regarding its decision to recognise Abkhazia and South Ossetia as sovereign states, to sign military-assistance and cooperation agreements with the de facto authorities of those two Georgian provinces and to establish military bases there, since these steps undermine the territorial integrity of Georgia as insisted upon by the relevant UN resolutions; call on Russia once again to reverse its decision and maintain that Russia cannot be regarded as an impartial moderator in the peace process; urge the Russian Government to ensure that EU monitors are granted full access to all areas affected by the conflict, in compliance with the mandate of the EU Monitoring Mission;
- (ab) insist that the goal of visa-free travel vis-à-vis Russia be pursued in the light of Council Regulation (EC) No 539/2001 <sup>(1)</sup>, which states that exemption from a visa requirement should be subject to a considered assessment of a variety of criteria relating inter alia to illegal immigration, public policy and security and the EU's external relations with third countries, consideration being also given to the implications of regional coherence and reciprocity, bearing in mind that relations between the EU and white-listed third countries are typified by a special political dimension requiring those third countries to attain an appropriate level in terms of democratic values and fundamental rights;
- (ac) insist that visa facilitation for students, researchers and businessmen should be a priority in order to promote people-to-people contacts; insist, however, that any further liberalisation of the visa regime vis-à-vis Russia will be conditional on a corresponding liberalisation of the visa arrangements vis-à-vis European Neighbourhood Policy countries, in order to avoid any discrepancies;
- (ad) in accordance with the EU-Russia agreement on facilitation of short-stay visas, request from the Russian authorities a clear commitment to reduce bureaucratic obstacles applied in a non-reciprocal manner with respect to all travellers, such as the need to have an invitation and to register upon arrival; bear in mind that the changes made in Russian visa rules in recent years and its ceasing to issue multiple-entry business visas may have negative consequences on business and commercial links between the EU and Russia; also bear in mind Parliament's view that facilitated travel for Russian passport holders should be limited to Russian residents only;

<sup>(1)</sup> Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81, 21.3.2001, p. 1).



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- (ae) urgently address the Kaliningrad transit and visa problem, possibly by providing for the whole of the Kaliningrad Oblast to be covered by the local border traffic regime;
  - (af) insist that the EU-Russia relationship be based on the principles of liberalised and open markets and reciprocity of investment rights between the partners, and therefore demand that, in exchange for close and beneficial economic ties, the Russian Government guarantee the property rights of foreign investors and review the 2008 Strategic Sectors Law, which gives the Russian State broad discretion to discriminate against foreign investors, by contrast to the EU internal market which is freely open to Russian investors; demand that the law on investment in strategic sectors must be compatible with Russia's current and future obligations under the WTO as well as the current PCA;
  - (ag) within the framework of the ongoing WTO accession negotiations, call on the Russian authorities not to suspend certain already negotiated and agreed commitments and to fully respect the 2004 EU-Russia agreement on WTO accession by eliminating all discriminatory charges, in particular for railway cargo, as well as to abolish export duties on untreated timber;
  - (ah) call on Russia to honour its commitment to phase out Siberian overflight payments and to sign the agreement reached on this issue at the summit in Samara;
  - (ai) address with the Russian Government its plans to develop free trade agreements with certain countries, which may affect the creation of a common economic space with Russia;
  - (aj) address a number of shipping-related concerns with the Russian Government, including free passage through the Pilawa strait, access for EU shipping to the passage to Asia along the Northern Russian territory, and the potential environmental hazards resulting from, inter alia, the growth of tanker traffic in the Baltic Sea;
  - (ak) address with the Russian Government the issue of congestion on the EU common border, which remains a serious obstacle to EU-Russia trade and economic relations;
  - (al) ask the Russian Federation to cooperate constructively with the EU with a view to resolving the status of break-away territories, including Transnistria, and to contribute to the strengthening of the sovereignty of the Moldovan Government, as a sine qua non for the stability of a key border region of the EU; stress that progress on this issue hinges upon the withdrawal of the Russian troops stationed inside Moldova, as pledged by Russia inter alia at the 1999 OSCE Istanbul Summit;
  - (am) while recognising the positive aspects of the intensification of scientific cooperation between EU and Russia, call for further comprehensive analyses of the (security-related) impacts of Russia's possible association with the Seventh Framework Programme;
  - (an) develop informal guidelines as to how the principles of solidarity and mutual accountability could underpin EU-Russia relations, with the aim of developing a more united and consistent policy vis-à-vis Russia;
2. Asks the Council and the Commission to keep Parliament and its Committee on Foreign Affairs regularly and fully informed of the progress of the negotiations and reminds them that the PCA will need Parliament's approval;
  3. Considers it important that mutual legal obligations should be strengthened through the early conclusion of the PCA and Russian accession to the WTO;
  4. Instructs its President to forward this recommendation to the Council and, for information, to the Commission, the State Duma and the Government and the President of the Russian Federation.
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## Health concerns associated with electromagnetic fields

P6\_TA(2009)0216

### European Parliament resolution of 2 April 2009 on health concerns associated with electromagnetic fields (2008/2211(INI))

(2010/C 137 E/08)

*The European Parliament,*

- having regard to Articles 137, 152, and 174 of the EC Treaty, seeking to promote a high level of human health, environmental protection and workers' health and safety protection,
- having regard to Council Recommendation 1999/519/EC of 12 July 1999 on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz) <sup>(1)</sup> and the related Commission implementation report of 1 September 2008 on the implementation of that recommendation (COM(2008)0532),
- having regard to Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding exposure of workers to the risks arising from physical agents (electromagnetic fields) <sup>(2)</sup>,
- having regard to Directive 1999/5/EC of the European Parliament and of the Council of 9 March 1999 on radio equipment and telecommunications terminal equipment and the mutual recognition of their conformity <sup>(3)</sup> and to the respective harmonised safety standards for mobile phones and base stations,
- having regard to Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits <sup>(4)</sup>,
- having regard to its resolution of 4 September 2008 on the mid-term review of the European Environment and Health Action Plan 2004-2010 <sup>(5)</sup>,
- having regard to its position of 10 March 1999 on the proposal for a Council Recommendation on the limitation of exposure of the general public to electromagnetic fields 0 Hz – 300 GHz <sup>(6)</sup>,
- having regard to Rule 45 of its Rules of Procedure,
- having regard to the report of the Committee on the Environment, Public Health and Food Safety (A6-0089/2009),

A. whereas electromagnetic fields (EMFs) exist in nature and have consequently always been present on earth; whereas, however, in recent decades, environmental exposure to man-made sources of EMFs has risen constantly, driven by demand for electricity, increasingly more specialised wireless technologies, and changes in the organisation of society; whereas the end effect is that every individual is now being exposed to a complex mixture of electric and magnetic fields of different frequencies, both at home and at work,

<sup>(1)</sup> OJ L 199, 30.7.1999, p. 59.

<sup>(2)</sup> OJ L 159, 30.4.2004, p. 1.

<sup>(3)</sup> OJ L 91, 7.4.1999, p. 10.

<sup>(4)</sup> OJ L 374, 27.12.2006, p. 10.

<sup>(5)</sup> Texts adopted, P6\_TA(2008)0410.

<sup>(6)</sup> OJ C 175, 21.6.1999, p. 129.



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- B. whereas wireless technology (mobile phones, Wi-Fi/WiMAX, Bluetooth, DECT landline telephones) emits EMFs that may have adverse effects on human health,
- C. whereas most European citizens, especially young people aged from 10 to 20, use a mobile phone, an object serving a practical purpose and as a fashion accessory, and whereas there are continuing uncertainties about the possible health risks, particularly to young people whose brains are still developing,
- D. whereas the dispute within the scientific community regarding the potential health risks arising from EMFs has intensified since 12 July 1999, when exposure limits for fields in the 0 Hz to 300 GHz range were laid down in Recommendation 1999/519/EC,
- E. whereas the fact that the scientific community has reached no definite conclusions has not prevented some national or regional governments, in China, Switzerland, and Russia, as well as in at least nine EU Member States, from setting what are termed 'preventive' exposure limits, that is to say, lower than those advocated by the Commission and its independent scientific committee, the Scientific Committee on Emerging and Newly Identified Health Risks <sup>(1)</sup>,
- F. whereas actions to limit the exposure of the general public to EMFs should be balanced against improvements to quality of life, in terms of safety and security, brought about by devices transmitting EMFs,
- G. whereas among the scientific projects arousing both interest and controversy is the Interphone epidemiological study, financed by an EU contribution of EUR 3 800 000, primarily under the Fifth RTD Framework Programme <sup>(2)</sup>, the findings of which have been awaited since 2006,
- H. whereas, however, there are some points that appear to be the subject of general agreement, in particular the idea that reactions to microwave exposure vary from one person to another, the need, as a matter of priority, to conduct exposure tests under actual conditions in order to assess the non-thermal effects associated with radio-frequency (RF) fields, and the fact that children exposed to EMFs are especially vulnerable <sup>(3)</sup>,
- I. whereas the EU has laid down exposure limits to protect workers from the effects of EMFs; whereas on the basis of the precautionary principle such measures should also be taken for the sections of population concerned, such as residents and consumers,
- J. whereas the Special Eurobarometer report on Electromagnetic Fields (No 272a of June 2007) indicates that the majority of citizens do not feel that the public authorities inform them adequately on measures to protect them from EMFs,
- K. whereas it is necessary to continue investigations into intermediate and very low frequencies so that conclusions can be drawn as to their effects on health,
- L. whereas the use of Magnetic Resonance Imaging (MRI) must not be threatened by Directive 2004/40/EC as MRI technology is at the cutting edge of research, diagnosis and treatment of life-threatening diseases for patients in Europe,

<sup>(1)</sup> Opinion of 21 March 2007 adopted at the 16<sup>th</sup> plenary meeting of the Committee.

<sup>(2)</sup> Quality of life programme, contract No QLK4-1999-01563.

<sup>(3)</sup> March 2001 STOA study on 'The physiological and environmental effects of non-ionising EMR', PE297.574.

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M. whereas the MRI safety standard IEC/EN 60601-2-33 establishes limit values for EMFs which have been set so that any danger to patients and workers is excluded,

1. Urges the Commission to review the scientific basis and adequacy of the EMF limits as laid down in Recommendation 1999/519/EC and report to the Parliament; calls for the review to be undertaken by the Scientific Committee on Emerging and Newly Identified Health Risks;

2. Calls for particular consideration of biological effects when assessing the potential health impact of electromagnetic radiation, especially given that some studies have found the most harmful effects at lowest levels; calls for active research to address potential health problems by developing solutions that negate or reduce the pulsating and amplitude modulation of the frequencies used for transmission;

3. Maintains that as well as, or as an alternative to, amending European EMFs limits, the Commission, working in coordination with experts from Member States and the industries concerned (electricity companies, telephone operators and manufacturers of electrical appliances including mobile phones), should draw up a guide to available technology options serving to reduce exposure to EMFs;

4. Notes that industry stakeholders as well as relevant infrastructure managers and competent authorities can already influence certain factors, for example setting provisions with regards to the distance between a given site and the transmitters, the height of the site in relation to the height of the base station, or the direction of a transmitting antenna in relation to living environments, and, indeed, should obviously do so in order to reassure, and afford better protection to, the people living close to such facilities; calls for optimal placement of masts and transmitters and further calls for the sharing of masts and transmitters placed in this way by providers so as to limit the proliferation of poorly positioned masts and transmitters; calls on the Commission and Member States to draw up appropriate guidance;

5. Invites the Member States and local and regional authorities to create a one-stop shop for authorisation to install antennas and repeaters, and to include among their urban development plans a regional antenna plan;

6. Urges the authorities responsible for authorising the siting of mobile telephony antennas to reach agreement, jointly with the operators in that sector, on the sharing of infrastructure, in order to reduce the volume thereof and the exposure of the public to EMFs;

7. Acknowledges the efforts of mobile communications and other EMF-transmitting wireless technologies to avoid damaging the environment, and in particular to address climate change;

8. Considers that, given the increasing numbers of legal actions and measures by public authorities having the effect of a moratorium on the installation of new EMF-transmitting equipment, it is in the general interest to encourage solutions based on negotiations involving industry stakeholders, public authorities, military authorities and residents' associations to determine the criteria for setting up new GSM antennas or high-voltage power lines, and to ensure at least that schools, crèches, retirement homes, and health care institutions are kept clear, within a specific distance determined by scientific criteria, of facilities of this type;

9. Calls on the Member States to make available to the public, jointly with the operators in the sector, maps showing exposure to high-voltage power lines, radio frequencies and microwaves, and especially those generated by telecommunications masts, radio repeaters and telephone antennas. Calls for that information to be displayed on an internet page so that it can easily be consulted by the public, and for it to be disseminated in the media;

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10. Proposes that the Commission consider the possibility of using funding from the Trans-European Energy Networks to investigate the effects of EMFs at very low frequencies, and particularly in electrical power lines;
11. Calls on the Commission, during the 2009-2014 parliamentary term, to launch an ambitious programme to gauge the electromagnetic compatibility between waves created artificially and those emitted naturally by the human body with a view to determining whether microwaves might ultimately have undesirable consequences for human health;
12. Calls on the Commission to present a yearly report on the level of electromagnetic radiation in the EU, its sources, and actions taken in the EU to better protect human health and the environment;
13. Calls on the Commission to find a solution enabling Directive 2004/40/EC to be implemented more rapidly and thus ensure that workers are properly protected against EMFs, just as they are already protected under two other Community acts against noise <sup>(1)</sup> and vibration <sup>(2)</sup> and to introduce a derogation for MRI under Article 1 of that Directive;
14. Deplores the fact that, as a result of repeated postponements since 2006, the findings of the Interphone study have yet to be published, the purpose of this international epidemiological study being to establish whether there is a link between use of mobile phones and certain types of cancer, including brain, auditory nerve, and parotid gland tumours;
15. Draws attention in this context to the appeal for caution from the coordinator of the Interphone study, Elisabeth Cardis, who, in the light of existing knowledge, recommends, as far as children are concerned, that mobile phones should not be used beyond reasonable limits and that landlines should be preferred;
16. Believes in any event that it is up to the Commission, which has an important contribution to the financing of this global study, to ask those in charge of the project why no definitive findings have been published and, should it receive an answer, to inform Parliament and the Member States without delay;
17. Also suggests to the Commission, to make for efficiency in policy and budget terms, that the Community funding earmarked for studies on EMFs be partly switched to finance a wide-ranging awareness campaign to familiarise young Europeans with good mobile phone techniques, such as the use of hands-free kits, keeping calls short, switching off phones when not in use (such as when in classes) and using phones in areas that have good reception;
18. Considers that such awareness-raising campaigns should also familiarise young Europeans with the health risks associated with household devices and the importance of switching off devices rather than leaving them on stand-by;
19. Calls on the Commission and Member States to increase research and development funding for the evaluation of potential long-term adverse effects of mobile telephony radio frequencies; calls also for an increase in public calls for proposals for investigation of the harmful effects of multiple exposure to different sources of EMFs, particularly where children are concerned;

<sup>(1)</sup> Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (OJ L 42, 15.2.2003, p. 38).

<sup>(2)</sup> Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (OJ L 177, 6.7.2002, p. 13).

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20. Proposes that the European Group on Ethics in Science and New Technologies be given the additional task of assessing scientific integrity in order to help the Commission forestall possible cases of risk, conflict of interests, or even fraud that might arise now that competition for researchers has become keener;
21. Calls on the Commission, in recognition of the public concern in many Member States, to work with all relevant stakeholders, such as national experts, non-governmental organisations and industrial sectors, to improve the availability of, and access to, up-to-date information understandable to non-specialists on wireless technology and protection standards;
22. Calls on the International Commission on Non-Ionising Radiation Protection and the World Health Organisation (WHO) to be more transparent and open to dialogue with all stakeholders in standard setting;
23. Condemns certain particularly aggressive marketing campaigns by telephone operators in the run-up to Christmas and other special occasions, including for example the sale of mobile phones designed solely for children or free call time packages aimed at teenagers;
24. Proposes that the EU's indoor air quality policy should encompass the study of 'wireless' domestic appliances, which, like Wi-Fi for Internet access and digital enhanced cordless telecommunications (DECT) telephones, have been widely adopted in recent years in public places and in the home, with the result that citizens are being continuously exposed to microwave emissions;
25. Calls, given its constant concern to improve consumer information, for the technical standards of the European Committee for Electrotechnical Standardisation to be amended with a view to imposing labelling requirements whereby the transmitting power would have to be specified and every wireless-operated device accompanied by an indication that it emitted microwaves;
26. Calls on the Council and Commission, in coordination with the Member States and the Committee of the Regions, to encourage the introduction of a single standard designed to ensure that local residents are subjected to as low a degree of exposure as possible when high-voltage grids are extended;
27. Is greatly concerned about the fact that insurance companies are tending to exclude coverage for the risks associated with EMFs from the scope of liability insurance policies, the implication clearly being that European insurers are already enforcing their version of the precautionary principle;
28. Calls on Member States to follow the example of Sweden and to recognise persons that suffer from electrohypersensitivity as being disabled so as to grant them adequate protection as well as equal opportunities;
29. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, the Committee of the Regions, and the WHO.
-

Thursday 2 April 2009

**Better schools: an agenda for European cooperation**

P6\_TA(2009)0217

**European Parliament resolution of 2 April 2009 on Better Schools: an agenda for European cooperation (2008/2329(INI))**

(2010/C 137 E/09)

*The European Parliament,*

- having regard to Articles 149 and 150 of the EC Treaty on education, vocational training and youth,
- having regard to Article 14 of the Charter of Fundamental Rights of the European Union on the right to education,
- having regard to the Commission Communication of 3 July 2008 entitled 'Improving competences for the 21st Century: An Agenda for European Cooperation on Schools' (COM(2008)0425),
- having regard to the Commission Communication of 16 December 2008 entitled 'An updated strategic framework for European cooperation on education and training' (COM(2008)0865),
- having regard to the Commission Communication of 12 November 2007 entitled 'Delivering lifelong learning for knowledge, creativity and innovation: Draft 2008 joint progress report of the Council and the Commission on the implementation of the Education and Training 2010 work programme' (COM(2007)0703),
- having regard to the ten-year Education and Training 2010 work programme <sup>(1)</sup> and to the subsequent joint interim reports on progress towards its implementation,
- having regard to Decision No 1720/2006/EC of the European Parliament and of the Council of 15 November 2006 establishing an action programme in the field of lifelong learning <sup>(2)</sup>,
- having regard to the Recommendation 2006/962/EC of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning <sup>(3)</sup>,
- having regard to the Presidency Conclusions of the European Council of 13-14 March 2008, notably the part on 'investing in people and modernising labour markets',
- having regard to the Council Resolution of 15 November 2007 on education and training as a key driver of the Lisbon Strategy <sup>(4)</sup>,
- having regard to the report to UNESCO of the International Commission on Education for the 21st Century,
- having regard to the Conclusions of the Council and the Representatives of the Governments of the Member States, meeting within the Council of 21 November 2008, on preparing young people for the 21st century: an agenda for European cooperation on schools <sup>(5)</sup>,

<sup>(1)</sup> OJ C 142, 14.6.2002, p. 1.<sup>(2)</sup> OJ L 327, 24.11.2006, p. 45.<sup>(3)</sup> OJ L 394, 30.12.2006, p. 10.<sup>(4)</sup> OJ C 300, 12.12.2007, p. 1.<sup>(5)</sup> OJ C 319, 13.12.2008, p. 20.

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- having regard to its resolution of 26 February 2004 on the role of schools and school education in maximizing public access to culture <sup>(1)</sup>,
  - having regard to its resolution of 8 September 2005 on options for developing the European Schools System <sup>(2)</sup>,
  - having regard to its resolution of 27 September 2007 on efficiency and equity in European education and training systems <sup>(3)</sup>,
  - having regard to its resolution of 13 November 2007 on the role of sport in education <sup>(4)</sup>,
  - having regard to its resolution of 23 September 2008 on improving the quality of teacher education <sup>(5)</sup>,
  - having regard to its resolution of 18 December 2008 on delivering lifelong learning for knowledge, creativity and innovation - implementation of the Education & Training 2010 work programme <sup>(6)</sup>,
  - having regard to Rule 45 of its Rules of Procedure,
  - having regard to the report of the Committee on Culture and Education (A6-0124/2009),
- A. whereas Member States are responsible for the organisation, content and reform of school education; whereas the exchange of information and good practice, and cooperation on common challenges, are excellent tools to support reforms; whereas the Commission has an important role to play in facilitating this cooperation,
- B. whereas the economic and social changes in the European Union, the factors conditioning the single market and the new opportunities and demands of a globalised economy are creating a set of common challenges for all national educational systems, making cooperation at European level in the field of education and training all the more necessary,
- C. whereas the considerable disparities between the respective performances of education systems in the EU could increase disparities in economic and social development between the Member States and jeopardise the achievement of the Lisbon Strategy objectives,
- D. whereas systematic measures are necessary to consolidate the role of education in the 'knowledge triangle' (research, innovation and education), in respect of which the Union provides support for the long-term strategy for future development, competitiveness and social cohesion and for the inclusion of education among the priorities of the forthcoming round of talks under the Lisbon Process,
- E. whereas benchmarks are important tools to drive forward further reforms, as they allow for the measurement of progress towards well-defined common goals,
- F. whereas the Council has adopted three benchmarks for 2010 relating to school education, on early school leavers, reading literacy and the completion of upper secondary education; whereas progress towards these benchmarks is still insufficient,
- G. whereas the acquisition of basic skills and key competences by all young people and the improvement of educational attainment levels are crucial for reaching the goals of the Lisbon agenda,

<sup>(1)</sup> OJ C 98 E, 23.4.2004, p. 179.

<sup>(2)</sup> OJ C 193 E, 17.8.2006, p. 333.

<sup>(3)</sup> OJ C 219 E, 28.8.2008, p. 300.

<sup>(4)</sup> OJ C 282 E, 6.11.2008, p. 131.

<sup>(5)</sup> Texts Adopted, P6\_TA(2008)0422.

<sup>(6)</sup> Texts Adopted, P6\_TA(2008)0625.

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- H. whereas young people's educational attainment has a direct effect on their later employment prospects, social participation, further education or training, and income,
- I. whereas the education of women is particularly influential on the educational performance of communities; whereas the incomplete or unsatisfactory education of girls may affect not only them, but may also transmit disadvantages to the next generation,
- J. whereas inequities and early school leaving produce high social and economic costs and have a detrimental effect on social cohesion, and whereas all forms of school segregation weaken the level of national education systems as a whole,
- K. whereas an alarming increase in violence at school, accompanied by manifestations of racism and xenophobia in the school environment, is currently being observed as a result of two basic trends within educational establishments - multiculturalism and the widening of the class divide - which are compounded by the lack of any suitable intervention or pupil support and contact mechanisms within the educational system,
- L. whereas inclusive educational models promote the integration of disadvantaged groups of pupils and of students with special educational needs, and increase solidarity between pupils from different backgrounds,
- M. whereas a well developed pre-primary education significantly contributes to the integration of disadvantaged groups (such as children from low-income and minority backgrounds), can help to raise overall skill levels, reduces educational differences, and is crucial for increasing equity and lowering drop-out rates,
- N. whereas schools have crucial importance in terms of children's social and learning life and personal development; as well as in terms of transmitting to them the knowledge, skills and values for participating in democratic society and for active citizenship,
- O. whereas, in the current global financial and economic crisis, education and training have a key role to play in developing innovative skills and know-how and ensuring the free movement of knowledge as the ideal instrument for economic recovery and employment market consolidation; noting, however, that the primary objective of policy making in the field of education and training is not to meet market needs and employability criteria but to ensure that pupils achieve an overall standard of knowledge meeting uniform educational criteria, resulting in fully rounded personalities,
- P. whereas curricula as well as teaching and assessment methods should allow every student to acquire key competences and to develop his or her full potential; whereas the physical and mental well-being of children, as well as an agreeable learning environment, are crucial for positive learning outcomes,
- Q. whereas a broad education including subject matters such as arts and music can contribute to fostering personal fulfilment, self-confidence and the development of creativity and innovative thinking,
- R. whereas education expenditure should be particularly directed at the areas that produce the greatest improvements in student performance and development,
- S. whereas the quality of teaching is recognised as being the most important factor within the school environment affecting student attainment,
- T. whereas mobility and exchanges can foster intercultural, language, social and subject-related competences, enhance motivation of both teachers and students, and help improve teachers' pedagogical skills,



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- U. whereas schools alone form only part of a group of actors sharing a collective responsibility for the education of young people,
  - V. whereas there is a need to create an evaluation culture in education and training systems to ensure effective, long-term monitoring of their development,
  - W. whereas Parliament stressed in its above-mentioned resolution of 8 September 2005 the need to reform the system by which the European Schools are governed in order to meet current challenges relating, in particular, to enlargement and its repercussions,
1. Welcomes the above-mentioned Commission Communication of 3 July 2008, and the areas on which it proposes to focus future cooperation;
  2. Welcomes the above-mentioned Commission Communication of 16 December 2008 and the measures it suggests;
  3. Endorses the view that school education should be a key priority for the next cycle of the Lisbon strategy;
  4. Welcomes Member States' agreement to cooperate on school education in key areas; urges Member States to take full advantage of this opportunity to learn from each other;

***Improving competences of every student***

5. Urges the Member States to do their utmost to provide every young person with basic skills that are fundamental for further learning, and to continue efforts to implement the Recommendation 2006/962/EC, as well as efforts to reach the benchmarks previously agreed upon;
6. Is concerned about the present trend of decreasing level of students' literacy and numeracy skills and urges the Member States to take all necessary measures to reverse it;
7. Recommends that Member States further consider strategies to reduce gender imbalances in basic skills;
8. Urges the Member States to continue efforts to reduce the number of early school leavers; emphasises the need to identify students at risk as soon as possible and to provide them with additional support and after-school learning activities, as well as to support them during the transition from one school level to the next and provide personalised learning approaches for those in need;
9. Notes that in the Union, young people show a concerning lack of ability to concentrate; therefore calls on the Commission to conduct a study to investigate the main reasons for this lack of concentration among pupils;
10. Takes the view that schools should provide high quality education for all children and have ambitious goals for all students, while offering a range of study options and additional support to take account of individual students' needs;
11. Therefore calls on the Member States to ensure that their educational policies achieve a balance between equality and quality, with the stress on social facilitation measures for pupils and students from disadvantaged backgrounds and on adapting the learning process to their individual needs, thus offering equal opportunities in terms of access to education;

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12. Furthermore, urges Member States to enhance the access of disadvantaged groups to vocational training and university studies according to the highest standards, inter alia by drawing up and advertising appropriate scholarship schemes;
13. Advocates inclusive education models where the school communities reflect society in terms of diversity, avoiding any kind of segregation;
14. Therefore urges Member States to pursue the aim of the complete desegregation of Roma classes/institutions in primary education, as well as to monitor and abolish the illegal practice of placing Roma children in classes for the mentally disabled;
15. Considers it important for young people to be prepared during their time at school, college and university for flexibility in the labour market in view of its mutability, (in that employers' requirements can change rapidly);
16. Calls for the modernisation and improvement of school curricula so that they reflect today's social, economic, cultural and technical realities and are closely linked to industry, business and the labour market;
17. However, takes the view that the reform of the educational system should be fundamentally geared to the full and multi-faceted development of the individual, cultivating respect for human rights and social justice, lifelong learning for the purposes of personal development and professional advancement, the protection of the environment and personal and collective wellbeing; takes the view that, in this context, matching knowledge thus acquired with market requirements is undoubtedly a priority for educational systems but is not their primordial and fundamental objective;
18. Believes that schools should strive not only to improve employability, but also to give all young people the opportunity to develop their full potential, in line with their personal aptitudes; underlines the importance of creating a learning environment where young people can acquire basic democratic competences enabling them actively to take part in civil society;
19. Considers that all children should, from the earliest age, be given the opportunity to acquire musical, artistic, manual, physical, social and civic competences; therefore, strongly believes that musical, artistic and physical education should be compulsory parts of the school curriculum;
20. Is convinced that, in accordance with the conclusions of the Barcelona European Council 2002, children should learn foreign languages from an early age; welcomes the proposal of a new benchmark, according to which at least 80 % of pupils in lower secondary education be taught at least two foreign languages; stresses the importance of continuing foreign language teaching in upper secondary education to assure that young people acquire high-level language competences; calls on Member States to reflect on the possibility of employing more native speakers to teach languages;
21. Underlines the importance of education in ICT and in media literacy; considers it important to instruct pupils in the use and applications of new communications and digital technology;
22. Appreciates the contribution of non-formal education in providing young people with valuable skills which are complementary to those acquired in schools and calls upon schools to cooperate more intensely with providers of non-formal education such as youth organisations;

***High-quality schools and teachers***

23. Considers quality education to be a right of every child, and that a first and important step to guaranteeing it would be a European charter on pupils' rights;

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24. Calls upon the Member States and the competent regional governments to invest in pre-primary education, to guarantee high-quality pre-primary and childcare institutions with adequately trained teachers and carers, and to guarantee affordability; supports the proposal for a new benchmark on the rate of participation in pre-primary education;

25. Believes that public education should remain primarily a state-financed domain which contributes to social equity and inclusion; welcomes, however, initiatives aimed at developing a fruitful cooperation with the private sector and exploring potential new ways of complementary financing;

26. Considers that public educational institutions in a more disadvantaged financial situation, particularly those located in poorer regions of the EU, should be granted additional support;

27. Believes that a good quality learning environment, providing modern infrastructure, materials and technology is a pre-requisite for achieving high quality education in schools;

28. Believes that the quality of education and its level of results further require curricula of a demanding and rigorous nature and assessment of pupils on a regular basis, with assessment implying the responsibility of the pupils themselves for the progress they make;

29. Calls on Member States to give schools the necessary autonomy to find solutions to the specific challenges they face in their local context, as well as the appropriate flexibility in curricula, teaching methods and assessment systems, while recognising the need to ensure comparability of qualification systems across Europe;

30. Considers evaluation to be a useful instrument for improving the quality of educational systems; stresses, however, that each system of evaluation and assessment should be targeted not only at the quantitative results and achievements of the pupils, which would create a social hierarchy of educational establishments, accompanied by 'multispeed' educational systems, but also at the system itself and the methods it uses, taking clearly into account the specific socio-economic circumstances in which each school is operating;

31. Believes that the quality of education and its level of results also depend to a large extent on respect for the teacher's authority in the classroom;

32. Considers that the composition of teaching staff should reflect, as far as possible, the increasing diversity of European societies, in order to provide role models for all pupils; in this respect, encourages reflection on the necessity of attracting more men to the teaching profession, particularly at primary level;

33. Is convinced that it is necessary to provide both high-quality initial teacher education based on theory and practice and a coherent process of continuous professional development and support in order to keep teachers up-to-date with the skills required in the knowledge-based society throughout their careers; believes that teacher education and recruitment policies should be designed to attract the most able recruits and that teachers should be offered levels of social recognition, status and remuneration corresponding with the importance of their tasks;

34. Strongly advocates that as many students and teachers as possible be given the opportunity to participate in mobility and in school partnership projects; underlines the importance of the Comenius programme in this respect; stresses the need to further reduce the administrative burden for applicant schools; welcomes the setting up of Comenius Regio; supports the proposal to develop a new benchmark on mobility;

35. Recommends that teachers, including artistic teachers, be encouraged to make maximum use of European and national mobility programmes, and that mobility becomes an integral part of their training and careers;

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36. Recommends involving parents in school life, and raising awareness about the potential impact of living conditions and of extracurricular activities on the acquisition of skills and competences at school, acknowledging that redressing educational inequalities solely through educational policies has proved to be unsuccessful;

37. Strongly recommends creating school/community partnerships in order to combat the problem of violence in schools, which threatens to spread to all of society;

38. Believes that all schools should foster the acquisition of democratic competences by supporting student councils and allowing students to take co-responsibility for the school in partnership with parents, teachers and school councils;

39. Calls on the Member States and Commission to cooperate closely to promote implementation of the European schooling system in the Member States' respective education systems; calls on the Commission to envisage including the European Schools in the work of the Eurydice network;

40. Asks the Commission to report regularly on the progress made following the two above-mentioned communications, so that the performance of education and training systems in the EU can be evaluated, with particular attention being paid to pupils' acquisition of key skills;

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41. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

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Thursday 2 April 2009

## III

*(Preparatory acts)*

## EUROPEAN PARLIAMENT

**Information in the veterinary and zootechnical fields \***

P6\_TA(2009)0196

**European Parliament legislative resolution of 2 April 2009 on the proposal for a Council decision correcting Directive 2008/73/EC simplifying procedures of listing and publishing information in the veterinary and zootechnical fields and amending Directives 64/432/EEC, 77/504/EEC, 88/407/EEC, 88/661/EEC, 89/361/EEC, 89/556/EEC, 90/426/EEC, 90/427/EEC, 90/428/EEC, 90/429/EEC, 90/539/EEC, 91/68/EEC, 91/496/EEC, 92/35/EEC, 92/65/EEC, 92/66/EEC, 92/119/EEC, 94/28/EC, 2000/75/EC, Decision 2000/258/EC and Directives 2001/89/EC, 2002/60/EC and 2005/94/EC (COM(2009)0045 – C6-0079/2009 – 2009/0016(CNS))**

(2010/C 137 E/10)

(Consultation procedure)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2009)0045),
  - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0079/2009),
  - having regard to Rules 51 and 43(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Agriculture and Rural Development (A6-0141/2009),
1. Approves the Commission proposal;
  2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  3. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  4. Instructs its President to forward its position to the Council and the Commission.

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Thursday 2 April 2009

**Community statistics on the information society \*\*\*I**

P6\_TA(2009)0197

**European Parliament legislative resolution of 2 April 2009 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 808/2004 concerning Community statistics on the information society (COM(2008)0677 – C6-0381/2008 – 2008/0201(COD))**

(2010/C 137 E/11)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0677),
  - having regard to Article 251(2) and Article 285(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0381/2008),
  - having regard to the opinion of the Statistical Programme Committee, established by Council Decision 89/382/EEC, Euratom <sup>(1)</sup>,
  - having regard to Rule 51 and 43(2) of its Rules of Procedure,
  - having regard to the report of the Committee on Industry, Research and Energy (A6-0128/2009),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

<sup>(1)</sup> OJ L 181, 28.6.1989, p. 47.

**P6\_TC1-COD(2008)0201**

**Position of the European Parliament adopted at first reading on 2 April 2009 with a view to the adoption of Regulation (EC) No .../2009 of the European Parliament and of the Council amending Regulation (EC) No 808/2004 concerning Community statistics on the information society**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Regulation (EC) No 1006/2009.)*

Thursday 2 April 2009

## **Approving the Agreement between the European Community and the Swiss Confederation on trade in agricultural products \***

P6\_TA(2009)0198

**European Parliament legislative resolution of 2 April 2009 on the proposal for a Council decision on the conclusion of the Agreement between the European Community and the Swiss Confederation amending Annex 11 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (15523/2008 – COM(2008)0685 – C6-0028/2009 – 2008/0202(CNS))**

(2010/C 137 E/12)

(Consultation procedure)

*The European Parliament,*

- having regard to the proposal for a Council decision (COM(2008)0685),
  - having regard to the draft Agreement between the European Community and the Swiss Confederation amending Annex 11 to the Agreement between the European Community and the Swiss Confederation on trade in agricultural products (15523/2008),
  - having regard to Articles 37, 133 and 152(4)(b) of the EC Treaty,
  - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0028/2009),
  - having regard to Rules 51 and 83(7) of its Rules of Procedure,
  - having regard to the report of the Committee on International Trade (A6-0122/2009),
1. Approves the conclusion of the Agreement;
  2. Instructs its President to forward its position to the Council and the Commission, and the governments and parliaments of the Member States and the Swiss Confederation.

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Thursday 2 April 2009

**Mutual recognition of supervision measures as an alternative to provisional detention \***

P6\_TA(2009)0199

**European Parliament legislative resolution of 2 April 2009 on the draft Council Framework Decision on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to provisional detention (17002/2008 – C6-0009/2009 – 2006/0158(CNS))**

(2010/C 137 E/13)

(Consultation procedure - renewed consultation)

*The European Parliament,*

- having regard to the Council draft (17002/2008),
  - having regard to the Commission proposal to the Council (COM(2006)0468),
  - having regard to its position of 29 November 2007 <sup>(1)</sup>,
  - having regard to Article 34(2)(b) of the EU Treaty,
  - having regard to Article 39(1) of the EU Treaty, pursuant to which the Council again consulted Parliament (C6-0009/2009),
  - having regard to Rules 93, 51 and 55(3) of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0147/2009),
1. Approves the Council draft as amended;
  2. Calls on the Council to amend the text accordingly;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Calls on the Council to consult Parliament again if it intends to amend the draft substantially or replace it with another text;
  5. Should that draft not be adopted prior to the entry into force of the Treaty of Lisbon, is determined to consider any future proposal by urgent procedure, in close cooperation with national parliaments;
  6. Instructs its President to forward its position to the Council and the Commission.

<sup>(1)</sup> OJ C 297 E, 20.11.2008, p. 116.

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COUNCIL DRAFT

AMENDMENT

**Amendment 1****Draft Framework Decision****Recital 13 a (new)**

*(13a) In the event of a breach of a European supervision measure, the issuing authority may decide to issue a European arrest warrant for the purpose of transferring the person concerned to the issuing State. In such circumstances, which should be strictly limited to the application of this Framework Decision, Framework Decision 2002/584/JHA covers all offences in relation to which a European supervision measure may be issued.*

**Amendment 2****Draft Framework Decision****Recital 17 a (new)**

*(17a) A uniform common set of procedural safeguards is a necessary prerequisite to ensuring a fair and effective application of measures concerning judicial cooperation in criminal matters; taking into due consideration the opinion of the European Parliament, the Council should without delay adopt a legal instrument on procedural safeguards in criminal proceedings, based on the principle of the presumption of innocence, which should include at least the authorisation issued by the judicial authority for any restriction or deprivation of liberty, the right to a 'Letter of Rights', to legal advice, to evidence, to be informed of the nature and reasons of the charges and of the grounds for suspicion, the right to access to all relevant documents in a language which the person concerned understands and to an interpreter;*

**Amendment 3****Draft Framework Decision****Article 2 - paragraph 2 a (new)**

*2a. For the purpose of this Framework Decision, a person is considered non-resident when his/her lawful and ordinary residence is fixed in a Member State other than the Member States where the proceedings are taking place.*

**Amendment 4****Draft Framework Decision****Article 4 - point a**

a) 'decision on supervision measures' shall mean an enforceable decision taken in the course of criminal proceedings by a competent authority of the issuing State in accordance with its national law and procedures and imposing on a natural person, as an alternative to provisional detention, one or more supervision measures;

a) 'decision on supervision measures' shall mean an enforceable decision taken in the course of criminal proceedings by a competent **judicial** authority of the issuing State in accordance with its national law and procedures and imposing on a natural person, as an alternative to provisional detention, one or more supervision measures;

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COUNCIL DRAFT

AMENDMENT

## Amendment 5

Draft Framework Decision

Article 4 - point d a (new)

*(da) 'competent authority in the issuing State' shall mean a court, judge, investigating magistrate or public prosecutor, with competence under national law to issue a decision on supervision measures;*

## Amendment 6

Draft Framework Decision

Article 4 - point d b (new)

*(db) 'competent authority in the executing State' shall mean a court, judge, investigating magistrate or public prosecutor, with competence under national law to execute and monitor decision on supervision measures.*

## Amendment 7

Draft Framework Decision

Article 5 a (new)

## Article 5a

## Personal data

*The processing of personal data for the purposes of this Framework Decision shall comply with at least the basic principles laid down in Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters<sup>(1)</sup> and in the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data and the subsequent protocols thereto.*

<sup>(1)</sup> OJ L 350, 30.12.2008, p. 60.

## Amendment 8

Draft Framework Decision

Article 6 - paragraph 2

*2. As an exception to paragraph 1 and without prejudice to paragraph 3, Member States may designate non-judicial authorities as the competent authorities for taking decisions under this Framework Decision, provided that such authorities have competence for taking decisions of a similar nature under their national law and procedures.*

*Deleted*

## Amendment 9

Draft Framework Decision

Article 8 - paragraph 1 - point f a (new)

*(fa) an obligation to deposit a certain sum of money or to give another type of security, which may either be provided in a specific number of instalments or in one lump sum.*

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COUNCIL DRAFT

AMENDMENT

## Amendment 10

Draft Framework Decision  
Article 8 - paragraph 2 - point c

- c) *an obligation to deposit a certain sum of money or to give another type of guarantee, which may either be provided through a specific number of instalments or entirely at once;* Deleted

## Amendment 11

Draft Framework Decision  
Article 9 - paragraph 1

1. A decision on supervision measures may be forwarded to the competent authority of the Member State in which the person is lawfully and ordinarily residing, in cases where the person, having been informed about the measures concerned consents to return to that State.
1. A decision on supervision measures may be forwarded to the competent authority of the Member State in which the person is lawfully and ordinarily residing, in cases where the person, having been **accurately** informed about the measures concerned **in a language which he/she understands**, consents to return to that State.

## Amendment 12

Draft Framework Decision  
Article 13 - paragraph 2

2. The adapted supervision measure shall not be more severe than the supervision measure which was originally imposed.
2. The adapted supervision measure shall **be of a technical nature only and shall not of itself impose any additional obligations on the person concerned. It shall** not be more severe than the supervision measure which was originally imposed.

## Amendment 13

Draft Framework Decision  
Article 14 - paragraph 1

1. *The following offences, if they are punishable in the issuing State by a custodial sentence or a measure involving deprivation of liberty for a maximum period of at least three years, and as they are defined by the law of the issuing State, shall, under the terms of this Framework Decision and without verification of the double criminality of the act, give rise to recognition of the decision on supervision measures:* deleted
- *participation in a criminal organisation,*
  - *terrorism,*
  - *trafficking in human beings,*
  - *sexual exploitation of children and child pornography,*
  - *illicit trafficking in narcotic drugs and psychotropic substances,*
  - *illicit trafficking in weapons, munitions and explosives,*
  - *corruption,*

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- *fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests 1,*
- *laundering of the proceeds of crime,*
- *counterfeiting currency, including of the euro,*
- *computer-related crime,*
- *environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,*
- *facilitation of unauthorised entry and residence,*
- *murder, grievous bodily injury,*
- *illicit trade in human organs and tissue,*
- *kidnapping, illegal restraint and hostage-taking,*
- *racism and xenophobia,*
- *organised or armed robbery,*
- *illicit trafficking in cultural goods, including antiques and works of art,*
- *swindling,*
- *racketeering and extortion,*
- *counterfeiting and piracy of products,*
- *forgery of administrative documents and trafficking therein,*
- *forgery of means of payment,*
- *illicit trafficking in hormonal substances and other growth promoters,*
- *illicit trafficking in nuclear or radioactive materials,*
- *trafficking in stolen vehicles,*
- *rape,*
- *arson,*
- *crimes within the jurisdiction of the International Criminal Court,*
- *unlawful seizure of aircraft/ships,*
- *sabotage.*

## Amendment 14

Draft Framework Decision  
Article 14 - paragraph 2

2. The Council may decide to add other categories of offences to the list in paragraph 1 at any time, acting unanimously after consultation of the European Parliament under the conditions laid down in Article 39(1) of the Treaty on European Union. The Council shall examine, in the light of the report submitted to it pursuant to Article 27 of this Framework Decision, whether the list should be extended or amended.

*deleted*

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AMENDMENT

## Amendment 15

## Draft Framework Decision

## Article 14 - paragraph 3

3. For offences other than those covered by paragraph 1, the executing State may make the recognition of the decision on supervision measures subject to the condition that the decision relates to acts which also constitute an offence under the law of the executing State, whatever the constituent elements or however it is described. *deleted*

## Amendment 16

## Draft Framework Decision

## Article 14 - paragraph 4

4. Member States may, for constitutional reasons, on the adoption of this Framework Decision, by a declaration notified to the General Secretariat of the Council, declare that they will not apply paragraph 1 in respect of some or all of the offences referred to in that paragraph. Any such declaration may be withdrawn at any time. Such declarations or withdrawals of declarations shall be published in the Official Journal of the European Union. *deleted*

## Amendment 17

## Draft Framework Decision

## Article 15 - paragraph 1 - point d

(d) the decision on supervision measures relates, in the cases referred to in Article 14(3) and, where the executing State has made a declaration under Article 14(4), in the cases referred to in Article 14(1), to an act which would not constitute an offence under the law of the executing State; in tax, customs and currency matters, however, execution of the decision may not be refused on the grounds that the law of the executing State does not prescribe any taxes of the same kind or does not contain any tax, customs or currency provisions of the same kind as the law of the issuing State; *deleted*

## Amendment 18

## Draft Framework Decision

## Article 21 - paragraph 1

1. If the competent authority of the issuing State has issued an arrest warrant **or any other enforceable judicial decision having the same effect**, the person shall be surrendered in accordance with the Framework Decision on the European Arrest Warrant.

1. If, **in the event of a breach of the supervision measure**, the competent authority of the issuing State has issued an arrest warrant, the person shall be surrendered in accordance with the Framework Decision on the European Arrest Warrant.

## Amendment 19

## Draft Framework Decision

## Article 21 - paragraph 3

3. Each Member State may notify the General Secretariat of the Council, when transposing this Framework Decision or at a later stage, that it will also apply Article 2(1) of the Framework Decision on the European Arrest Warrant in deciding on the surrender of the person concerned to the issuing State. *deleted*



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COUNCIL DRAFT

AMENDMENT

## Amendment 20

## Draft Framework Decision

## Article 21 - paragraph 4

4. The General Secretariat of the Council shall make the *deleted* information received under the previous paragraph available to all Member States and to the Commission.

## Amendment 21

## Draft Framework Decision

## Annex I - certificate - box (f) - point 2

2. If the alleged offence(s) referred to in point 1 constitute(s) *deleted* one or more of the following alleged offences, as defined in the law of the issuing State which are punishable in the issuing State by a custodial sentence or measure involving deprivation of liberty of a maximum of at least three years, please confirm by ticking the relevant box(es):

- participation in a criminal organisation,
- terrorism,
- trafficking in human beings,
- sexual exploitation of children and child pornography,
- illicit trafficking in narcotic drugs and psychotropic substances,
- illicit trafficking in weapons, munitions and explosives,
- corruption,
- fraud, including that affecting the financial interests of the European Communities within the meaning of the Convention of 26 July 1995 on the protection of the European Communities' financial interests 1,
- laundering of the proceeds of crime,
- counterfeiting currency, including of the euro,
- computer-related crime,
- environmental crime, including illicit trafficking in endangered animal species and in endangered plant species and varieties,
- facilitation of unauthorised entry and residence,
- murder, grievous bodily injury,
- illicit trade in human organs and tissue,
- kidnapping, illegal restraint and hostage-taking,
- racism and xenophobia,
- organised or armed robbery,
- illicit trafficking in cultural goods, including antiques and works of art,
- swindling,
- racketeering and extortion,
- counterfeiting and piracy of products,

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## COUNCIL DRAFT

## AMENDMENT

- *forgery of administrative documents and trafficking therein,*
- *forgery of means of payment,*
- *illicit trafficking in hormonal substances and other growth promoters,*
- *illicit trafficking in nuclear or radioactive materials,*
- *trafficking in stolen vehicles,*
- *rape,*
- *arson,*
- *crimes within the jurisdiction of the International Criminal Court,*
- *unlawful seizure of aircraft/ships,*
- *sabotage.*

## Amendment 22

## Draft Framework Decision

## Annex I - certificate - box (f) - point 3

3. *To the extent that the alleged offence(s) identified under point 1 is (are) not covered by point 2 or if the decision, as well as the certificate are forwarded to a Member State, which has declared that it will verify the double criminality (Article 14(4) of the Framework Decision), please give a full description of the alleged offence(s) concerned:* *deleted*

## Amendment 23

## Draft Framework Decision

## Annex I - certificate - box (g) - paragraph 3 - subparagraph 1 - indent 3 a (new)

*an obligation to deposit a certain sum of money or to give another type of security, which may either be provided in a specific number of instalments or in one lump sum;*

## Amendment 24

## Draft Framework Decision

## Annex I - certificate - box (g) - paragraph 3 - subparagraph 2 - indent 3

*an obligation to deposit a certain sum of money or to give another type of guarantee, which may either be provided through a specific number of instalments or entirely at once;* *deleted*

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**New types of costs eligible for a contribution from the ESF \*\*\*I**

P6\_TA(2009)0200

**European Parliament legislative resolution of 2 April 2009 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1081/2006 on the European Social Fund to extend the types of costs eligible for a contribution from the ESF (COM(2008)0813 – C6-0454/2008 – 2008/0232(COD))**

(2010/C 137 E/14)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0813),
  - having regard to Article 251(2) and Article 148 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0454/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Budgets and the Committee on Regional Development (A6-0116/2009),
1. Approves the Commission proposal;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and the Commission.

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**ERDF, ESF and Cohesion Fund: provisions relating to financial management \*\*\***

P6\_TA(2009)0201

**European Parliament legislative resolution of 2 April 2009 on the proposal for a Council regulation amending Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund concerning certain provisions relating to financial management (17575/2008 – C6-0027/2009 – 2008/0233(AVC))**

(2010/C 137 E/15)

(Assent procedure)

*The European Parliament,*

- having regard to the proposal for a Council regulation (COM(2008)0803 / 17575/2008),
- having regard to the request for assent submitted by the Council pursuant to Article 161, third paragraph, of the EC Treaty (C6-0027/2009),

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- having regard to Rule 75(1) of its Rules of Procedure,
  - having regard to the recommendation of the Committee on Regional Development and the opinions of the Committee on Budgets and the Committee on Employment and Social Affairs (A6-0127/2009),
1. Gives its assent to the proposal for a Council regulation;
  2. Instructs its President to forward its position to the Council and Commission.

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## Community statistics on external trade \*\*\*II

P6\_TA(2009)0205

**European Parliament legislative resolution of 2 April 2009 on the common position adopted by the Council with a view to the adoption of a regulation of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (15248/2/2008 – C6-0065/2009 – 2007/0233(COD))**

(2010/C 137 E/16)

(Codecision procedure: second reading)

*The European Parliament,*

- having regard to the Council common position (15248/2/2008 – C6-0065/2009),
  - having regard to its position at first reading <sup>(1)</sup> on the Commission proposal to Parliament and the Council (COM(2007)0653),
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on International Trade (A6-0126/2009),
1. Approves the common position;
  2. Notes that the act is adopted in accordance with the common position;
  3. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
  4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the *Official Journal of the European Union*;
  5. Instructs its President to forward its position to the Council and Commission.

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<sup>(1)</sup> Texts Adopted, 23.9.2008, P6\_TA(2008)0414.

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**Establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin \*\*\*II**

P6\_TA(2009)0206

**European Parliament legislative resolution of 2 April 2009 on the common position adopted by the Council with a view to the adoption of a regulation of the European Parliament and of the Council laying down Community procedures for the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin, repealing Council Regulation (EEC) No 2377/90 and amending Directive 2001/82/EC of the European Parliament and of the Council and Regulation (EC) No 726/2004 of the European Parliament and of the Council (15079/2/2008 – C6-0005/2009 – 2007/0064(COD))**

(2010/C 137 E/17)

(Codecision procedure: second reading)

*The European Parliament,*

- having regard to the Council common position <sup>(1)</sup> (15079/2/2008 – C6-0005/2009),
  - having regard to its position at first reading <sup>(2)</sup> on the Commission proposal to Parliament and the Council (COM(2007)0194),
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A6-0048/2009),
1. Approves the common position;
  2. Notes that the act is adopted in accordance with the common position;
  3. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
  4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the *Official Journal of the European Union*;
  5. Instructs its President to forward its position to the Council and Commission.

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<sup>(1)</sup> OJ C 33 E, 10.2.2009, p. 30.

<sup>(2)</sup> Texts adopted, 17.6.2008, P6\_TA(2008)0285.

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## **Eligibility under ERDF of energy efficiency and renewable energy investments in housing \*\*\*I**

P6\_TA(2009)0207

**European Parliament legislative resolution of 2 April 2009 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of energy efficiency and renewable energy investments in housing (COM(2008)0838 – C6-0473/2008 – 2008/0245(COD))**

(2010/C 137 E/18)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0838),
  - having regard to Article 251(2) and Article 162 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0473/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Regional Development (A6-0134/2009),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and the Commission.

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## **P6\_TC11-COD(2008)0245**

**Position of the European Parliament adopted at first reading on 2 April 2009 with a view to the adoption of Regulation (EC) No .../2009 of the European Parliament and of the Council amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of energy efficiency and renewable energy investments in housing**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Regulation (EC) No 397/2009.)*

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**Community Code on Visas \*\*\*I**

P6\_TA(2009)0208

**European Parliament legislative resolution of 2 April 2009 on the proposal for a regulation of the European Parliament and of the Council establishing a Community Code on Visas (COM(2006)0403 – C6-0254/2006 – 2006/0142(COD))**

(2010/C 137 E/19)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0403),
  - having regard to Article 251(2) and Article 62(2)(a) and (b) (ii) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0254/2006),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0161/2008),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and the Commission.

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**P6\_TC1-COD(2006)0142**

**Position of the European Parliament adopted at first reading on 2 April 2009 with a view to the adoption of Regulation (EC) No .../2009 of the European Parliament and of the Council establishing a Community Code on Visas (Visa Code)**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Regulation (EC) No 810/2009.)*

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Thursday 2 April 2009

## **Community ecolabel scheme \*\*\*I**

P6\_TA(2009)0209

**European Parliament legislative resolution of 2 April 2009 on the proposal for a regulation of the European Parliament and of the Council on a Community Ecolabel scheme (COM(2008)0401 – C6-0279/2008 – 2008/0152(COD))**

(2010/C 137 E/20)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0401),
  - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0279/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection (A6-0105/2009),
1. Approves the Commission proposal as amended;
  2. Takes note of the Commission declaration annexed to this resolution;
  3. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  4. Instructs its President to forward its position to the Council and Commission.

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## **P6\_TC1-COD(2008)0152**

**Position of the European Parliament adopted at first reading on 2 April 2009 with a view to the adoption of Regulation (EC) No .../2009 of the European Parliament and of the Council on the EU Ecolabel**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Regulation (EC) No ....)*

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## ANNEX

**COMMISSION DECLARATION**

Independently of the adoption of the Ecolabel Regulation, the Commission confirms that it intends to propose a Regulation on eco-labelling of fishery products before the end of this year to be mainly based on criteria for sustainable fishing.

The study foreseen in Article 6(6) of the Ecolabel regulation dealing with additional aspects such as processing, pre-packaging, packaging and transport, which will examine the feasibility of the extension of the scope of the Ecolabel Regulation to food, including the products of fishing and aquaculture, will not influence or prejudge the adoption of this Regulation.

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**Voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) \*\*\*I**

P6\_TA(2009)0210

**European Parliament legislative resolution of 2 April 2009 on the proposal for a regulation of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) (COM(2008)0402 – C6-0278/2008 – 2008/0154(COD))**

(2010/C 137 E/21)

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0402),
- having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0278/2008),
- having regard to Rule 51 of its Rules of Procedure,
- having regard to the report of the Committee on the Environment, Public Health and Food Safety (A6-0084/2009),

1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.
-

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**P6\_TC1-COD(2008)0154**

**Position of the European Parliament adopted at first reading on 2 April 2009 with a view to the adoption of Regulation (EC) No .../2009 of the European Parliament and of the Council on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC**

*(As an agreement was reached between Parliament and Council, Parliament's position at first reading corresponds to the final legislative act, Regulation (EC) No ....)*

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**Equal treatment of persons irrespective of religion or belief, disability, age or sexual orientation \***

P6\_TA(2009)0211

**European Parliament legislative resolution of 2 April 2009 on the proposal for a Council directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation (COM(2008)0426 – C6-0291/2008 – 2008/0140(CNS))**

(2010/C 137 E/22)

(Consultation procedure)

*The European Parliament,*

- having regard to the Commission proposal to the Council (COM(2008)0426),
  - having regard to Article 13(1) of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0291/2008),
  - having regard to Rule 51 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs, and the opinions of the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Food Safety, the Committee on Culture and Education, the Committee on Legal Affairs and the Committee on Women's Rights and Gender Equality (A6-0149/2009),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
  3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
  4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
  5. Instructs its President to forward its position to the Council and the Commission.

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

**Amendment 1****Proposal for a directive****Recital 2**

(2) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the UN Convention on the Rights of Persons with Disabilities, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.

(2) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, **the UN Convention on the Rights of the Child**, the UN Convention on the Rights of Persons with Disabilities, **Article 14 of and Optional Protocol 12 to** the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.

**Amendment 2****Proposal for a directive****Recital 2 a (new)**

*(2a) The principle of equality and the prohibition of discrimination are general principles of international, European and national law, that bind the EU and its Member States in all matters within their competence. This Directive contributes to reaching this aim and to overcome discrimination that is not compatible with it.*

**Amendment 3****Proposal for a directive****Recital 2 b (new)**

*(2b) This Directive is one means by which the Community is complying with its obligations under the UN Convention on the Rights of Persons with Disabilities, and should be interpreted in that light.*

**Amendment 4****Proposal for a directive****Recital 2 c (new)**

*(2c) In accordance with Article 5 of the Political Declaration agreed at the conclusion of the United Nations World Conference on Ageing in Madrid 2002, it was agreed to reaffirm the commitment to spare no effort in eliminating all forms of discrimination, including age discrimination; to recognise that persons, as they age, should enjoy a life of fulfilment, health, security and active participation in the economic, social, cultural and political life of their societies; to enhance the recognition of the dignity of older persons; and to eliminate all forms of neglect, abuse and violence.*

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

**Amendment 5**  
**Proposal for a directive**  
**Recital 2 d (new)**

*(2d) Physical and mental health and well-being are key to the quality of life of individuals and society and are vital factors for achieving the objectives of the European Union's Lisbon Strategy.*

**Amendment 6**  
**Proposal for a directive**  
**Recital 3**

(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.

(3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular **by the European Convention for the Protection of Human Rights and Fundamental Freedoms, including Article 9 on freedom of thought, conscience and religion and Article 10 on freedom of expression, as well as by** the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; **Article 20 provides that everyone is equal before the law;** Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; **Article 24 gives specific rights to children;** and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.

**Amendment 7**  
**Proposal for a directive**  
**Recital 4**

(4) The European Years of Persons with Disabilities in 2003, of Equal Opportunities for All in 2007, and of Intercultural Dialogue in 2008 have highlighted the persistence of discrimination but also the benefits of diversity.

(4) The European Years of Persons with Disabilities in 2003, of Equal Opportunities for All in 2007, and of Intercultural Dialogue in 2008 have highlighted the persistence of **direct and indirect** discrimination, **multiple discrimination and discrimination by association**, but also **the need to promote** the benefits of diversity.

**Amendment 8**  
**Proposal for a directive**  
**Recital 4 a (new)**

*(4a) The diversity of European society is a key aspect of the cultural, political and social integration of the Union and must be respected.*

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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

**Amendment 9****Proposal for a directive  
Recital 7 a (new)**

*(7a) Discrimination based on religion or belief, disability, age, or sexual orientation may undermine the achievement of the objectives of the EC Treaty, in particular the attainment of a high level of employment and of social protection, the raising of the standard of living and quality of life, economic and social cohesion and solidarity. It may also undermine the objective of developing the European Union as an area of freedom, security and justice.*

**Amendment 11****Proposal for a directive  
Recital 8**

(8) The Community has adopted **three legal instruments** on the basis of Article 13(1) of the EC Treaty to prevent and combat discrimination on grounds of sex, racial and ethnic origin, religion or belief, disability, age and sexual orientation. These **instruments** have demonstrated the value of legislation in the fight against discrimination. **In particular**, Directive 2000/78/EC establishes a general framework for equal treatment in employment and occupation **on the grounds of religion or belief, disability, age and sexual orientation. However, variations remain between Member States on the degree and the form of protection from discrimination on these grounds beyond the areas of employment.**

(8) The Community has adopted **a set of directives** on the basis of Article 13(1) of the EC Treaty to prevent and combat discrimination on grounds of sex, racial and ethnic origin, religion or belief, disability, age and sexual orientation. These **directives** have demonstrated the value of legislation in the fight against discrimination. **Directive 2000/43/EC establishes a framework against discrimination based on racial or ethnic origin inside and outside the labour market. Directive 2004/113/EC establishes a framework for equal treatment between men and women in the access to and supply of goods and services. Directive 2000/78/EC establishes for the grounds of religion or belief, disability, age and sexual orientation a general framework for equal treatment in employment and occupation. It does not cover areas outside this scope.**

**Amendment 12****Proposal for a directive  
Recital 9**

(9) Therefore, legislation should prohibit discrimination based on religion or belief, disability, age or sexual orientation in a range of areas outside the labour market, including social protection, education and access to and supply of goods and services, **including** housing. It should provide for measures to ensure the equal access **of persons with disabilities** to the areas covered.

(9) Therefore, legislation should prohibit **direct and indirect discrimination, multiple discrimination and discrimination by association** based on **sex, racial or ethnic origin**, religion or belief, disability, age or sexual orientation **or gender** in a range of areas outside the labour market, including social protection, education and access to and supply of goods and services, **such as** housing, **transport, associations and health**. It should provide for measures to ensure the equal access to the areas covered **of persons of a particular religion or belief, disability, age or particular sexual orientation, or a combination of these specific characteristics, and of persons associated with them.**

**Amendment 13****Proposal for a directive  
Recital 9 a (new)**

*(9a) In this Directive, goods should be taken to be those within the meaning of the provisions of the EC Treaty relating to the free movement of goods. Services should be taken to be those within the meaning of Article 50 of the EC Treaty.*



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TEXT PROPOSED BY THE COMMISSION

AMENDMENT

**Amendment 14****Proposal for a directive  
Recital 9 b (new)**

*(9b) Persons with disabilities frequently face discrimination in the form of inaccessible public transport and the built environment, as well as inaccessible communications and information. Member States must take measures to ensure accessibility in these areas in order to put into effect the principle of equal treatment.*

**Amendment 15****Proposal for a directive  
Recital 11**

(11) This Directive *should be* without prejudice to the competences of the Member States in the areas of education, social security and health care. It *should also be* without prejudice to the essential role and wide discretion of the Member States in providing, commissioning and organising services of general economic interest.

(11) This Directive *is* without prejudice to *the exercise of* the competences of the Member States in the areas of education *and social protection, including* social security and health care. It *is* also without prejudice to the essential role and wide discretion of the Member States in providing, commissioning and organising services of general economic interest.

**Amendment 16****Proposal for a directive  
Recital 12**

(12) Discrimination is understood to include direct and indirect discrimination, harassment, instructions to discriminate and denial of reasonable accommodation.

(12) Discrimination is understood to include direct and indirect discrimination, *multiple discrimination*, harassment, instructions to discriminate and denial of reasonable accommodation.

**Amendment 17****Proposal for a directive  
Recital 12 a (new)**

*(12a) Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, whether environmental or attitudinal, may hinder their full and effective participation in society on an equal basis with others.*

**Amendment 82****Proposal for a directive  
Recital 12 b (new)**

*(12b) Owing to the excessive burden on micro-enterprises, they should be afforded special protection, following the model of the US Civil Rights Act.*

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**Amendment 19****Proposal for a directive  
Recital 12 c (new)**

(12c) *Discrimination is understood to include denial of medical treatment on the grounds of age alone.*

**Amendment 20****Proposal for a directive  
Recital 12 d (new)**

(12d) *Discrimination on the grounds of disability includes discrimination on the grounds that a person is accompanied by or assisted by a recognised guide dog or assistance dog which has been trained in accordance with the standards of either the International Guide Dog Federation or Assistance Dogs International.*

**Amendment 21****Proposal for a directive  
Recital 12 e (new)**

(12e) *Effective non-discriminatory access can be provided by a variety of means, including through 'design for all' and through facilitating the use of assistive devices by persons with disabilities, including aids to mobility and access, such as recognised guide dogs and other assistance dogs.*

**Amendment 22****Proposal for a directive  
Recital 12 f (new)**

(12f) *An alteration is fundamental with regard to Article 4 if it alters the goods or services or the nature of the trade, profession or business to the extent that the provider of the goods or services is effectively providing a completely different kind of goods or services.*

**Amendments 10 and 23****Proposal for a directive  
Recital 13**

(13) In implementing the principle of equal treatment *irrespective of religion or belief, disability, age or sexual orientation*, the Community should, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and to promote equality *between men and women, especially since women are often the victims* of multiple discrimination.

(13) *This Directive also takes into account multiple discrimination. As discrimination can occur on two or more of the grounds listed in Articles 12 and 13 of the EC Treaty, in implementing the principle of equal treatment, the Community should, in accordance with Articles 3(2) and 13 of the EC Treaty, aim to eliminate inequalities relating to sex, race or ethnic origin, disability, sexual orientation, religion or belief, or age or a combination of these, and to promote equality, whatever combination of characteristics relating to the above-mentioned factors a person may have. Effective legal procedures should be available to deal with situations of multiple discrimination. In particular national legal procedures should ensure that a complainant can raise all aspects of a multiple-discrimination claim in a single procedure.*

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**Amendment 24****Proposal for a directive****Recital 14 a (new)**

*(14a) Differences in treatment on grounds of age and disability may be permitted if they are objectively and reasonably justified by a legitimate aim and the means of achieving that aim are appropriate and necessary. Such differences of treatment may include, for example, special age conditions regarding access to certain goods or services such as alcoholic drinks, arms, or driving licences. The promotion of the economic, cultural or social integration of young or older persons or persons with disabilities may also be regarded as a legitimate aim. Therefore measures relating to age and disability which set more favourable conditions than are available to others, such as free or reduced tariffs for the use of public transport, museums, or sport facilities, are presumed to be compatible with the principle of non-discrimination.*

**Amendment 83****Proposal for a directive****Recital 15**

(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where *the factors* are shown to be *key* factors for the assessment of risk.

*(15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where **they** are shown to be **determining** factors for the assessment of risk, **and where the service provider can demonstrate significantly higher risks, by actuarial principles, statistical data or medical data.** These data should be accurate, recent and relevant and made available on request. The actuarial and risk factors should reflect positive changes in life expectancy and active ageing as well as increased mobility and accessibility for people with disabilities. Medical data are understood as being limited to objective and verified medical facts and to undisputed medical knowledge that comply with medical data collection standards.*

**Amendment 26****Proposal for a directive****Recital 15 a (new)**

*(15a) The award of contracts concluded in the Member States on behalf of the State, regional or local authorities and other bodies governed by public law is subject to compliance with the principles of the Treaty and in particular with the principle of freedom of movement of goods, the principle of freedom of establishment and the principle of freedom to provide services and with the principles deriving therefrom, such as the principle of equal treatment, the principle of non-discrimination, the principle of mutual recognition, the principle of proportionality and the principle of transparency. Legal requirements on the co-ordination of procedures for the award of public works contracts, public supply contracts and public service contracts having been laid down by Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts <sup>(1)</sup>, so that the award of contracts concluded in the Member States on behalf of the State, regional or local*

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authorities and other bodies governed by public law, is subject to compliance with the principles of the EC Treaty and in particular with the principle of equal treatment irrespective of sex, race or ethnic origin, disability, sexual orientation, religion or belief or age and the principle of non-discrimination. However, for public contracts above a certain value, provisions of Community coordination of national procedures for the award of such contracts have been drawn up so as to ensure the opening-up of public procurement to competition. Member States should interpret these coordinating provisions in accordance with the principles of equal treatment irrespective of sex, race or ethnic origin, disability, sexual orientation, religion or belief or age and other rules of the Treaty.

<sup>(1)</sup> OJ L 134, 30.4.2004, p. 114.

## Amendment 27

Proposal for a directive  
Recital 16

(16) All individuals enjoy **the** freedom to contract, including the freedom to choose a contractual partner for a transaction. ***This Directive should not apply to economic transactions undertaken by individuals for whom these transactions do not constitute their professional or commercial activity.***

(16) All individuals enjoy freedom to contract, including the freedom to choose a contractual partner for a transaction. ***It is important, in the context of the access to and provision of goods and services, to respect the protection of private and family life and transactions carried out in this context. Transactions between private individuals acting in a private capacity are therefore not covered by this Directive, where they do not constitute a professional or commercial activity by the contracting parties.***

## Amendment 28

Proposal for a directive  
Recital 17

(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including ***the protection of private and family life and transactions carried out in that context***, the freedom of religion, ***and*** the freedom of association. This Directive is without prejudice to ***national laws on marital or family status, including on reproductive rights.*** ***It is also without prejudice to*** the secular nature of the State, state institutions or bodies, or education.

(17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the freedom of religion, the freedom of association, ***freedom of expression and freedom of the press.*** This Directive is without prejudice to the secular nature of the State, state institutions or bodies, or education. ***This Directive does not alter the division of competences between the European Union and its Member States, including in the area of marital and family law and health law.***

## Amendment 85

Proposal for a directive  
Recital 18

(18) Member States are responsible for the organisation and content of education. The Commission Communication on Competences for the 21<sup>st</sup> Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. ***In particular national law may provide*** for differences in access to educational institutions based on religion or belief. ***Member States may also allow or prohibit the wearing or display of religious symbols at school.***

(18) Member States are responsible for the organisation and content of education. ***They should ensure effective protection against discrimination on grounds of religion or belief, disability, age or sexual orientation.*** The Commission Communication on Competences for the 21<sup>st</sup> Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. ***Member States may allow, only on the basis of objective justifications,*** for differences in access to educational institutions based on religion or belief ***when requiring individuals to act in good faith and with loyalty to the organisation's ethos,***

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provided that this does not justify discrimination on any other ground and that other educational institutions are geographically accessible and form a reasonable alternative, in order to prevent indirect discrimination. Member States shall ensure that this does not lead to a denial of the right to education.

**Amendment 30****Proposal for a directive  
Recital 19**

(19) The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations. ***Measures to enable persons with disabilities to have effective non-discriminatory access to the areas covered by this Directive play an important part in ensuring full equality in practice. Furthermore, individual measures of reasonable accommodation may be required in some cases to ensure such access. In neither case are measures required that would impose a disproportionate burden. In assessing whether the burden is disproportionate, account should be taken of a number of factors including the size, resources and nature of the organisation. The principle of reasonable accommodation and disproportionate burden are established in Directive 2000/78/EC and the UN Convention on Rights of Persons with Disabilities.***

(19) The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations.

**Amendment 31****Proposal for a directive  
Recital 19 a (new)**

(19a) ***Measures to enable persons with disabilities to have effective non-discriminatory access to the areas covered by this Directive play an important part in ensuring full equality in practice. Furthermore, individual measures of reasonable accommodation may be required in some cases to ensure such access. In no cases are measures required that would impose a disproportionate burden. In assessing whether the burden is disproportionate, account should be taken of whether the measure in question is impracticable and unsafe and could not be made practicable and safe by a reasonable change to rules, policies or practices or the removal of architectural, communication or transport barriers or the provision of auxiliary aids or services. Reasonable accommodation would not necessarily require significant structural changes to buildings whose structure is protected specifically under national law on account of their historical, cultural or architectural value. The principles of reasonable accommodation and disproportionate burden are established in Directive 2000/78/EC and the UN Convention on the Rights of Persons with Disabilities.***

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**Amendment 32****Proposal for a directive  
Recital 21**

(21) The prohibition of discrimination should be without prejudice to the maintenance or adoption by Member States of measures intended to prevent or compensate for disadvantages suffered by **a group of** persons of a particular religion or belief, disability, age or sexual orientation. Such measures **may permit** organisations of persons of a particular religion or belief, disability, age or sexual orientation where their main object is the promotion of the special needs of those persons.

(21) The prohibition of discrimination should be without prejudice to the maintenance or adoption by Member States of measures intended to prevent or compensate for disadvantages suffered by persons of a particular religion or belief, disability, age or sexual orientation, **or having a combination of characteristics relating to these specific factors, and persons associated with them. This prohibition may be accompanied by measures designed to promote equal treatment and equal opportunities which take account of the gender dimension and affirmative actions aimed at meeting the special needs of persons or categories of persons who, because of their characteristics, require structures, services and assistance not required by others.** Such measures **shall be accompanied by the establishment of independent** organisations of persons of a particular religion or belief, disability, age or sexual orientation where their main object is the promotion of the special needs of those persons.

**Amendment 34****Proposal for a directive  
Recital 25**

(25) The effective implementation of the principle of equal treatment requires adequate judicial protection against victimisation.

(25) The effective implementation of the principle of equal treatment requires adequate judicial protection against victimisation. **Effective judicial protection of individual rights must be accompanied by active promotion of non-discrimination and equal opportunities.**

**Amendment 35****Proposal for a directive  
Recital 26**

(26) In its resolution on the Follow-up of the European Year of Equal Opportunities for All (2007), the Council called for the full association of civil society, including organisations representing people at risk of discrimination, the social partners and stakeholders in the design of policies and programmes aimed at preventing discrimination and promoting equality and equal opportunities, both at European and national levels.

(26) In its resolution on the Follow-up of the European Year of Equal Opportunities for All (2007), the Council called for the full association of civil society, including organisations representing people at risk of discrimination, the social partners and stakeholders in the design of policies and programmes aimed at preventing discrimination and promoting equality and equal opportunities, both at European and national levels. **With this in view, the Commission and Member States should take steps to ensure that the provisions laid down in this Directive and those already in force in this sector are brought to the notice of the public and stakeholders – through information and press campaigns aimed inter alia at eliminating stereotypes – by appropriate, adequate and accessible means, such as sign language or special websites for the visually impaired.**

**Amendment 36****Proposal for a directive  
Recital 31 a (new)**

**(31a) In interpreting the meaning of the grounds of discrimination, international and European human rights instruments should be taken into account by courts and tribunals, including the recommendations and case-law of their supervisory organs, such as the European Court of Human Rights.**



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**Amendment 37**  
**Proposal for a directive**  
**Article 1**

This Directive lays down a framework for combating discrimination on the grounds of religion or belief, disability, age, or sexual orientation, with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.

**1.** This Directive lays down a framework for combating discrimination, **including multiple discrimination**, on the grounds of religion or belief, disability, age, or sexual orientation, with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.

**2. Multiple discrimination occurs when discrimination is based:**

**(a) on any combination of the grounds of religion or belief, disability, age, or sexual orientation, or**

**(b) on any one or more of the grounds set out in paragraph 1, and also on the ground of any one or more of**

**(i) sex (in so far as the matter complained of is within the material scope of Directive 2004/113/EC as well as of this Directive),**

**(ii) racial or ethnic origin (in so far as the matter complained of is within the material scope of Directive 2000/43/EC as well as of this Directive), or**

**(iii) nationality (in so far as the matter complained of is within the scope of Article 12 of the EC Treaty).**

**3. In this Directive, multiple discrimination and multiple grounds shall be construed accordingly.**

**Amendment 38**  
**Proposal for a directive**  
**Article 2 – paragraph 2**

**2.** For the purposes of paragraph 1:

**(a)** direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on **any** of the grounds referred to in Article 1;

**(b)** indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

**2.** For the purposes of paragraph 1:

**(a)** direct discrimination shall be taken to occur where one person, **or persons who are or who are assumed to be associated with such a person**, is treated less favourably than another is, has been or would be treated in a comparable situation, on **one or more** of the grounds referred to in Article 1;

**(b)** indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation, **or persons who are or who are assumed to be associated with such persons**, at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.



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**Amendment 39****Proposal for a directive  
Article 2 – paragraph 3**

3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

3. ***Without prejudice to freedom of speech***, harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment. ***In this context, the concept of harassment may be defined in accordance with the national law and practice of the Member States.***

**Amendment 40****Proposal for a directive  
Article 2 – paragraph 4**

4. An instruction to discriminate against persons on any of the grounds referred to in Article 1 shall be deemed to be discrimination within the meaning of paragraph 1.

(4) An instruction ***or request, based on a hierarchical relationship***, to discriminate against persons on any of the grounds referred to in Article 1 shall be deemed to be discrimination within the meaning of paragraph 1.

**Amendment 41****Proposal for a directive  
Article 2 – paragraph 4 a (new)**

***4a. Discrimination based on assumptions about a person's religion or belief, disability, age or sexual orientation or because of association with persons of a particular religion or belief, disability, age or sexual orientation, shall be deemed to be discrimination within the meaning of paragraph 1.***

**Amendment 42****Proposal for a directive  
Article 2 – paragraph 5**

5. Denial of reasonable accommodation in a particular case as provided for by Article 4 (1)(b) of the present Directive as regards persons with disabilities shall be deemed to be discrimination within the meaning of paragraph 1.

5. Denial of reasonable accommodation in a particular case as provided for by Article 4(1)(b) of the present Directive as regards persons with disabilities ***or persons who associate with a person with a disability, where the accommodation is needed to enable such persons to provide personal assistance to a person with a disability***, shall be deemed to be discrimination within the meaning of paragraph 1.

**Amendment 43****Proposal for a directive  
Article 2 – paragraph 6**

6. ***Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.***

6. ***This Directive does not preclude differences in treatment on grounds of age if they are objectively and reasonably justified by a legitimate aim, and if the means of achieving that aim are appropriate, proportionate, necessary and effective.***

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**Amendments 87 and 44****Proposal for a directive****Article 2 – paragraph 7**

7. Notwithstanding paragraph 2, in the provision of financial services **Member States may permit** proportionate differences in treatment where, for the product in question, the use of age or disability is a **key** factor in the assessment of risk based on relevant **and accurate** actuarial **or** statistical data.

7. Notwithstanding paragraph 2, in the provision of financial services proportionate differences in treatment where, for the product in question, the use of age or disability is a **determining** factor in the assessment of risk based on relevant actuarial **principles, accurate** statistical data **or medical knowledge, shall not be deemed to constitute discrimination for the purposes of this Directive. These data should be accurate, recent, and relevant and made available on request, in an accessible way. The actuarial and risk factors should reflect positive changes in life expectancy and active ageing as well as increased mobility and accessibility for people with disabilities. The service provider must be able to objectively demonstrate significantly higher risks and ensure that the difference in treatment is objectively and reasonably justified by a legitimate aim and the means of achieving that aim are proportionate, necessary and effective.**

**Amendment 45****Proposal for a directive****Article 2 – paragraph 8**

8. This Directive shall be without prejudice to general measures laid down in national law which, in a democratic society, are necessary for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health and the protection of the rights and freedoms of others.

8. This Directive shall be without prejudice to general measures laid down in national law which, in a democratic society, are necessary **and proportionate** for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health and the protection of the rights and freedoms of others.

**Amendment 46****Proposal for a directive****Article 2 – paragraph 8 a (new)**

**8a. This Directive recognises that the right to privacy is a means of combating the discrimination referred to in this Article.**

**Amendment 47****Proposal for a directive****Article 3 – paragraph 1 – subparagraph 1 – point d**

(d) Access to and supply of goods and other services which are available to the public, including housing.

(d) Access to and supply of goods and other services which are available to the public, including housing **and transport.**

**Amendment 48****Proposal for a directive****Article 3 – paragraph 1 – subparagraph 1 – point d a (new)**

**(da) affiliation to and activities in associations and the services provided by such organisations.**

**Amendment 49****Proposal for a directive****Article 3 – paragraph 1 – subparagraph 2**

Subparagraph (d) **shall apply to** individuals **only insofar as they are performing a** professional **or commercial** activity.

Subparagraph (d) **does not concern transactions between private individuals for whom the transactions do not constitute a commercial or** professional activity.

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**Amendment 50****Proposal for a directive****Article 3 – paragraph 2**

2. This Directive *is without prejudice to national laws on marital or family status and reproductive rights.*

2. This Directive *does not alter the division of competences between the European Union and its Member States.*

**Amendments 89 and 51****Proposal for a directive****Article 3 – paragraph 3**

3. This Directive *is without prejudice to the responsibilities of Member States for* the content of teaching, activities and the organisation of *their* educational systems, *including the provision of special needs education. Member States may provide for differences in treatment in* access to educational institutions based on religion or belief.

3. This Directive *shall not apply to* the content of teaching, activities and the organisation of *national* educational systems, while *Member States shall ensure the rights of persons with disabilities to education without discrimination and on the basis of equal opportunities. Member States shall also ensure that, in determining which type of education or training is appropriate, the views of the person with a disability are respected.* Member States may *allow* for differences in access to educational institutions based on religion or belief, *so as to maintain the particular character and ethos of such establishments and a plurality of educational systems, provided that this does not represent an infringement of the right to education and does not justify discrimination on any other grounds. Member States shall ensure that this does not lead to a denial of the right to education.*

**Amendments 95 and 52****Proposal for a directive****Article 3 – paragraph 4**

4. This Directive *is without prejudice to national legislation* ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status *and* activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation *promoting* equality between men and women.

4. This Directive *shall not apply to national law* ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status, activities *and legal framework* of churches and other organisations based on religion or belief *where this falls outside the competence of the EU. Where the activities of churches or other organisations based on religion and belief fall within EU competence, they shall be subject to the Union's non-discrimination provisions.* It is equally without prejudice to national legislation *ensuring* equality between *males and females.*

**Amendment 53****Proposal for a directive****Article 3 – paragraph 5**

5. This Directive does not cover differences of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons in the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.

5. This Directive does not cover differences of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons in the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned. *Discrimination on the grounds of religion or belief, disability, age or sexual orientation which is presented as a difference in treatment based on nationality shall be treated as discrimination within the meaning of Article 1.*

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**Amendment 91****Proposal for a directive  
Article 3 – paragraph 5 a (new)**

***5a. The advertising and media sectors shall be excluded from the scope of this Directive.***

**Amendment 55****Proposal for a directive  
Article 4 – paragraph 1 – introductory part**

1. In order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities:

***1. In order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities, whereby 'disability' is to be understood in the light of the UN Convention on the Rights of Persons with Disabilities, and persons with chronic diseases:***

**Amendment 97****Proposal for a directive  
Article 4 – paragraph 1 – point a**

a) The measures necessary to enable persons with disabilities to have effective non-discriminatory access to social protection, social advantages, health care, education and access to and supply of goods and services which are available to the public, including housing ***and transport***, shall be provided by anticipation, including through appropriate modifications or adjustments. ***Such measures should not impose a disproportionate burden, nor require fundamental alteration of the social protection, social advantages, health care, education, or goods and services in question or require the provision of alternatives thereto.***

***a) The measures necessary to enable persons with disabilities to have effective non-discriminatory access to social protection, social advantages, health care, education and access to and supply of goods and services which are available to the public, including housing, telecommunication and electronic communications, information including information provided in accessible formats, financial services, culture and leisure, buildings open to the public, modes of transport and other public spaces and facilities, shall be provided by anticipation, including through appropriate modifications or adjustments. Where failure to provide effective non-discriminatory access arises from practice, policy or procedure, measures shall be taken so that it no longer has that effect.***

**Amendment 57****Proposal for a directive  
Article 4 – paragraph 1 – point b**

b) ***Notwithstanding the obligation to ensure effective non-discriminatory access and where needed in a particular case, reasonable accommodation shall be provided unless this would impose a disproportionate burden.***

***b) For the purposes of this paragraph, effective non-discriminatory access involves the identification and elimination of obstacles and barriers and the prevention of new obstacles and barriers that hamper the access of persons with disabilities to goods, services and facilities available to the general public, irrespective of the nature of the obstacle, barrier or disability. Subject to the provisions of this Directive, and regardless of the measures chosen to remove the obstacles or barriers, effective non-discriminatory access for persons with disabilities shall be provided under the same terms and conditions as for persons without disabilities wherever possible, and the use of assistive devices by persons with disabilities shall be facilitated, including aids to mobility and access, such as recognised guide dogs and other assistance dogs wherever necessary. Where reasonable accommodation cannot be made to ensure effective non-discriminatory access, despite all efforts, provided under the same terms and conditions, and in accordance with the provisions of this Directive, a meaningful alternative to access shall be provided. For the purposes of this provision, 'reasonable accommodation' means alternative measures needed in a particular case to enable a person with a disability***

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to have access to and/or enjoy or exercise on an equal basis with others rights that fall within the scope of this Directive as defined in Article 3(1).

#### Amendment 98

##### Proposal for a directive Article 4 – paragraph 2

2. For the purposes of assessing whether *measures necessary to comply with paragraph 1 would impose* a disproportionate burden, account *shall* be taken, *in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities.* The burden shall not be disproportionate when it is sufficiently remedied by measures existing *within the framework of the equal treatment policy of* the Member State concerned.

2. *Measures to obtain effective non-discriminatory access should not impose a disproportionate burden or require a fundamental alteration.* For the purpose of assessing whether *the measure in question would give rise to* a disproportionate burden, account *should* be taken *of whether the measure in question is impracticable or unsafe and could not be made practicable and safe by a reasonable change to rules, policies or practices or the removal of architectural, communication or transport barriers or the provision of auxiliary aids or services.* A change is fundamental if it alters the goods and services or the nature of the trade, profession or business, to such an extent that the provider of the goods or services is effectively providing a completely different kind of goods or services. Reasonable accommodation shall not necessarily require significant structural changes to buildings whose structure is protected specifically under national law on account of their historical, cultural or architectural value. The burden shall not be *deemed* disproportionate when it is sufficiently remedied by measures existing *in* the Member State concerned. *The principle of reasonable accommodation and disproportionate burden should be interpreted in the light of Directive 2000/78/EC and the UN Convention on the Rights of Persons with Disabilities.*

#### Amendment 60

##### Proposal for a directive Article 4 – paragraph 3

3. This Directive shall be without prejudice to the provisions of Community law or national rules covering the accessibility of particular goods or services.

3. This Directive shall be without prejudice to the provisions of Community law or national rules covering the accessibility of particular goods or services. *However, wherever possible, EU institutions and Member States shall take measures to encourage providers of goods and services, in particular manufactured goods, to design accessible solutions, for instance through public procurement practices. Accessible products and services are those designed so that they may be used by all users.*

#### Amendment 61

##### Proposal for a directive Article 5

With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to religion or belief, disability, age, or sexual orientation.

With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures *or from allowing these measures to be taken by the public, private or voluntary sectors* to prevent or compensate for disadvantages linked to religion or belief, disability, age, or sexual orientation.

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**Amendment 62****Proposal for a directive****Article 7 – paragraph 1**

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available **in practice** to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.

**Amendment 64****Proposal for a directive****Article 7 – paragraph 3 a (new)**

**3a. Member States shall introduce in their national legal systems such measures as are necessary to ensure real and effective compensation or reparation, as the Member States determine, for the loss and damage sustained by a person injured as a result of discrimination within the meaning of this Directive, in a way which is dissuasive and proportionate to the damage suffered.**

**Amendment 65****Proposal for a directive****Article 8 – paragraph 2**

2. Paragraph 1 shall not prevent Member States from introducing rules **of evidence** which are more favourable to plaintiffs.

2. Paragraph 1 shall not prevent Member States from introducing rules which are more favourable to plaintiffs.

**Amendment 66****Proposal for a directive****Article 9 a (new)****Article 9a****Promotion of Equality**

**Member States shall actively promote equality between persons irrespective of religion or belief, disability, age or sexual orientation when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas within the scope of this Directive.**

**Amendment 86****Proposal for a directive****Article 10**

Member States shall ensure that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of the persons concerned by appropriate means throughout their territory.

Member States shall ensure that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of the persons concerned by appropriate means, **including the Internet**, throughout their territory.

**With a view to promoting the principle of equal treatment, Member States shall organise ad hoc information and awareness campaigns and training.**



Thursday 2 April 2009

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

**Amendment 68**  
**Proposal for a directive**  
**Article 11**

With a view to promoting the principle of equal treatment, Member States shall encourage dialogue with relevant stakeholders, in particular non-governmental organisations, ***which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on the grounds and in the areas covered by this Directive.***

With a view to promoting the principle of equal treatment, Member States shall encourage dialogue with relevant stakeholders, in particular non-governmental organisations, ***and such consultation shall also include monitoring the implementation of the Directive.***

**Amendment 69**  
**Proposal for a directive**  
**Article 12 – paragraph 1**

1. Member States shall designate ***a*** body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of ***human rights or the safeguard of individuals' rights, including*** rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.

1. Member States shall designate ***an independent functioning and adequately funded*** body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. ***Member States shall ensure that the body or bodies have competence in the fields covered by this Directive and the fields of employment and occupation under Directive 2000/78/EC.*** These bodies may form part of agencies charged at national level with the defence of ***the*** rights under other Community acts including Directives 2000/43/EC, ***2000/78/EC*** and 2004/113/EC.

**Amendment 70**  
**Proposal for a directive**  
**Article 12 – paragraph 2 – indent -1 (new)**

— ***facilitating administrative or legal proceedings concerning discrimination where the victim is resident in a Member State other than that of the respondent, by contacting the equivalent organisation or organisations in the Member State of the respondent,***

**Amendment 71**  
**Proposal for a directive**  
**Article 12 – paragraph 2 – indent -1a (new)**

— ***ensuring access by the complainant to legal aid in accordance with Council Directive 2003/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes<sup>(1)</sup>, where appropriate,***

<sup>(1)</sup> OJ L 26, 31.1.2003, p. 41.



Thursday 2 April 2009

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

**Amendment 72****Proposal for a directive****Article 12 – paragraph 2 – indent 2**

— conducting independent surveys concerning discrimination,

— **monitoring and** conducting independent surveys concerning discrimination, **including on the application of anti-discrimination law,****Amendment 73****Proposal for a directive****Article 12 – paragraph 2 – indent 3 a (new)**— **cooperating and exchanging information with the Fundamental Rights Agency and with other corresponding EU bodies.****Amendment 74****Proposal for a directive****Article 12 – paragraph 2 a (new)****2a. Member States shall provide these bodies with sufficient resources to enable them to carry out their duties in an effective and accessible manner.****Amendment 75****Proposal for a directive****Article 13 – point a**

a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished;

a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are **immediately** abolished;**Amendment 76****Proposal for a directive****Article 14**

Member States shall lay down the rules on sanctions applicable to breaches of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied. Sanctions may comprise the payment of compensation, which may not be restricted by the fixing of a prior upper limit, and must be effective, proportionate and dissuasive.

Member States shall lay down the rules on sanctions applicable to breaches of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied. Sanctions may comprise the payment of compensation, which may not be restricted by the fixing of a prior upper limit, and must be effective, proportionate and dissuasive **and result in the cessation of the discriminatory conduct and the removal of its effects.**

**Amendments 59 and 77****Proposal for a directive****Article 15 – paragraph 2**

2. In order **to take account of particular conditions, Member States may, if necessary, establish that the obligation to provide effective access as set out in Article 4 has to be complied with by ... [at the latest] four [years after adoption].**

Member States wishing to use **this** additional period shall **inform** the Commission **at the latest by the date set down in paragraph 1 giving reasons.**

2. In order **to comply with the obligation to provide effective non-discriminatory access to existing infrastructures, policies or procedures within the meaning of Article 4(1)(a), Member States may, if necessary, have an additional period of 10 years [from the deadline for transposition] to comply with that obligation.**

Thursday 2 April 2009

TEXT PROPOSED BY THE COMMISSION

AMENDMENT

Member States wishing to **make** use of the additional period shall **submit to** the Commission **a plan for progressive compliance with the requirements set out in Article 4(1)(a), including targets, means and timeline.** Any Member State which chooses to make use of this additional period shall report biannually to the Commission on the steps taken to provide effective non-discriminatory access and on the progress made towards the implementation of Article 4(1)(a). The Commission shall report biannually to the Council.

**Amendment 78****Proposal for a directive  
Article 16 – paragraph 1**

1. Member States **and national equality bodies** shall communicate to the Commission, by .... at the latest and every five years thereafter, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

1. Member States shall communicate to the Commission, by .... at the latest and every five years thereafter, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

**Amendment 79****Proposal for a directive  
Article 16 – paragraph 1 a (new)**

**1a. No later than ... years after the entry into force of this Directive, a comprehensive Community legal framework relating to non-discrimination must be brought into force in the form of a single Directive consolidating and thus replacing all existing Directives based on Article 13 of the EC Treaty, including this Directive. The new directive shall provide for an equal level of protection for each ground for discrimination.**

**Amendment 80****Proposal for a directive  
Article 16 – paragraph 2**

2. The Commission's report shall take into account, as appropriate, the viewpoints of the social partners and relevant non-governmental organizations, as well as the EU Fundamental Rights Agency. In accordance with the principle of gender mainstreaming, this report shall, inter alia, provide an assessment of the impact of the measures taken on women and men. In the light of the information received, this report shall include, if necessary, proposals to revise and update this Directive.

2. The Commission's report shall take into account, as appropriate, the viewpoints of the social partners and relevant non-governmental organizations, as well as the EU Fundamental Rights Agency. **The report shall include a review of the current practices in Member States in relation to Article 2(7), with regard to the use of age or disability as a factor in the calculation of premiums and benefits.** In accordance with the principle of gender mainstreaming, this report shall, inter alia, provide an assessment of the impact of the measures taken on women and men. **The report shall also contain information about multiple discrimination, covering not only discrimination on grounds of religion or belief, sexual orientation, age and disability, but also discrimination on grounds of sex, race and ethnic origin.** In the light of the information received, this report shall include, if necessary, proposals to revise and update this Directive.



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*	Consultation procedure
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**II	Cooperation procedure: second reading
***	Assent procedure
***I	Codecision procedure: first reading
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