

# Charter of Fundamental Rights of the European Union

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This Communication presents the legal nature of the Charter of Fundamental Rights of the European Union. The challenge of preparing the draft Charter has been taken up at the formal session of the Convention on 02.10.2000. The President of the Convention responsible for preparing it recorded that there was broad consensus on the draft and sent it to the President of the European Council. The draft Charter offers great potential value added. By bringing together in a single instrument the rights hitherto scattered over a range of national and international instruments, it enshrines the very essence of the European *acquis* regarding fundamental rights. The Commission is convinced that the value added by the draft is real and that this value added is the basis for the future success of the Charter, irrespective of its ultimate legal nature. Moreover, the Commission considers that the draft Charter offers an acceptable response in relation to the following: - respect for autonomy of EU law; - the relationship between the Charter and the European Convention for the Protection of Human Rights and Fundamental Freedoms; - the relationship between the Charter and the Union's powers, and respect for the principle of subsidiarity; - a major advance in certainty as to the law. The Commission considers that the Charter, by reason of its content, its tight drafting and its high political and symbolic value, ought properly to be incorporated in the Treaties sooner or later. It is preferable, for the sake of visibility and certainty, as to the law, for the Charter to be made mandatory in its own right and not just through its judicial interpretation. Furthermore, the Commission is of the opinion that in relation to the Charter being able to have full effect in the future, any decision on the matter must be based on clear criteria that have already been put forward: - evaluation of the content of the Charter; - greater certainty as to the law; - visibility of rights for citizens; - a firm foundation for the European venture in the values protected by fundamental rights. Regarding timing, the European Charter might consider entering the question on the agenda for the current Intergovernmental Conference. It could take a decision to that effect at the Biarritz meeting. But this question cannot be considered without regard for the scope of the proceedings as already defined by the European Council for the present Intergovernmental Conference or for the prospect of reorganising the Treaties as proposed by the Commission at that conference in its communication of 12.07.2000, "A Basic Treaty for the European Union". In conclusion, the Commission believes that there is a very close link between reorganisation of the Treaties and incorporation of the Charter in them. Consequently, the Heads of State or Government should at the very least decide at Nice to launch some kind of process in this direction, clearly setting objectives and procedural and other details.