

# Charter Of The Rights Of The Residents Of Europe

Contribution Of SOS RACISMO For The Debate Of The Charter Of The Fundamental Rights In Europe

*The present proposal for the Charter of the Rights of the Residents in Europe was presented for the first time in August of 1996, during the meeting of the SOS Racism Federation in Strasbourg. It was also presented in later meetings: in Paris on 28 of March 1999, and Madrid on 17 April 1999. It was distributed in February 2000 on the occasion of the preparative meeting for the Council of Europe Against Racism that took place in Brussels.*

## Preamble

Migrations assume today and at worldwide level, an increased importance due to the aggravation of the economic conditions in the countries where the vast majority of the world population lives. One of the privileged destinations for this immigration is Europe, not only because it has better economic conditions, but also due to the historical relations that, throughout the centuries, were established with the most varied peoples.

Simultaneously, and taking into consideration the development of economic relations, transports and communications, we are living a process of globalisation that on one hand leads to a stronger concern with what is happening all over the world and, on the other, allows an increased mobility, making it easier for one to inhabit in different places throughout one's life.

This situation must lead to a recognition of certain rights of citizenship that exceed the traditional concepts of Fatherland/Nation/Nationality and allow a wider intervention in the decisions that can affect all citizens, independently of having or not the nationality of the Country where they inhabit, thus facilitating the social integration of foreigners in community.

In a time when the construction of a united Europe begins an important phase, we cannot allow that the economic aspects of this construction supplant the social and political aspects, and that this construction is made against the peoples who do not integrate the European Union.

In this direction, it is urgent to adopt a Charter that establishes the minimum rights that must be granted to all those who inhabit in Europe, independently of being national of a State, and that institutes as inalienable rights the principles of human rights, such as the freedom of circulation, familiar regrouping, participation in politics, political asylum, equality in the access to job, health, habitation, social security and education.

On the other hand, considering that only the concession of European citizenship will be able to lead to the full and harmonious integration of everyone who lives in the European Union, the concession of European citizenship will be given to all the residents in the territory of the States Members of the European Union.

Considering that nobody must be deprived of a set of rights strictly associated to its dignity while human being, norms of minimum protection of foreigners in irregular situation are defined.

## Article 1

### Definition of Resident

1- Resident is understood as any singular person of a Third State of the European Union who lives or works in the territory of a State Member.

2- For the effect of the present Charter, it is understood as Residence the continued permanence of a foreigner in the territory of a State Member of the European Union, who has only been absent for periods of short duration, for relevant social reasons such as assistance to the family and vacation.

## Article 2

### Right of Freedom of Circulation

Everyone who inhabits in a State Member of the European Union will be able to freely circulate in any State Member. This right of freedom of circulation includes the right to work, installation and residence

## Article 3

### Right to European Citizenship

Everyone who inhabits in a State Member of the European Union will have automatic right to European citizenship, independently of having, or not, the nationality of a State Member of the European Union.

## Article 4

### Acquisition of Nationality

- 1- Everyone who inhabits in a State Member will be able to require the respective nationality, which will be granted automatically if the requirements foreseen in the legislation of this State are fulfilled
- 2- The concession of nationality will be automatically extended to the spouse and to underage descendants of the petitioner, except when an explicit choice is made in contrary.

## Article 5

### Family Regrouping

- 1- Everyone who inhabits in a State Member has the right to family regrouping, in the people of: its spouse, descendants and ascendants.
- 2- These rights cannot be lost for force of an eventual splitting.

## Article 6

### Right of Participation Politics

Everyone who inhabits in a State Member will be able to vote, and to be elected, in the elections and referendums of this State.

## Article 7

### Right of Asylum

All petitioners for political asylum must have immediate access to one interpreter, independent and free legal support. If the request is accepted, and in case of necessity, there should be social support until the final decision of the process is made.

The petition for political asylum cannot be refused by formal reasons, in particular due to the lack of documentation that, given the specific political and/or administrative situation of the State of origin of the petitioner, is impossible or difficult to get.

All the laws of asylum of the States Members will have to foresee the possibility of concession of political asylum to all those who, not fulfilling the requirements of the Convention of Geneva, were obliged to abandon its country either by force of an armed conflict or public calamity.

Clauses of "Third Country Shelter" or "Safe Country" as well as clauses that allow the rejection of the concession of political asylum for "reasons of internal or external security" are not allowed. Any norm that does not allow asylum petitioners to accept work is prohibited.

The employees responsible for the reception and analysis of the requests will be submitted to periodic courses of formation that will have as main objectives the development of an anti-discrimination conscience and to enable them to appreciate processes taking into consideration the specific situation of the petitioner.

## **Article 8**

### **Gypsies of Third Countries**

The systems of education of the States Members must foresee the casiness necessary so that schools can receive the children of gypsies, taking into account the great mobility of these communities. Long-distance education must be developed, which will contain in its curricula references to History, Culture and Language of the Gypsies. The States Members must have specific programs of education that facilitate the insertion of the Gypsies in the job market. Spaces in the main ways of European circulation must be reserved and endowed with basic infrastructures to a low gypsies' communities in transit temporary installation in these places.

## **Article 9**

### **Blanking of Restrictions of the Right to the Job**

Restrictions to jobs are prohibited.

Restrictions to jobs in communitarian institutions are also prohibited.

## **Article 10**

### **Access to the Health, Habitation, Social Security and Education**

Norms in the States Members of the European Union that restrict the access Health, Social Security and Education only to national citizens are prohibited.

## **Article 11**

### **Right of Immigrants in Irregular Situation**

- 1- Regularization of everyone without papers.
- 2- End to the expulsions and return to Europe of all the expulsions.
- 3- Release of all those withheld due to lack of documents.
- 4- Closing of the detention centres.

Foreigners, who are found in irregular situation will benefit of free legal and social support until the conclusion of the process.

The cruel, inhumane or degrading treatment during the execution of the expulsion decision is prohibited, in particular the use of chains or handcuffs and the administration of sedative substances, under penalty of the decision of expulsion to be declared null.

## **Article 12**

### **Prohibition of the Broadcasting of Ideologies inciting Xenophobia and Racism**

It is prohibited the edition, spreading and circulation of material inciting xenophobia, racism and racial violence. It is prohibited the broadcasting of ideas or doctrines that deny, justify or intend the whitewashing of regimes or institutions that have practised genocide crimes

## **Article 13**

### **Restrictions to the Expulsion of Foreigners**

The application of the accessory penalty is not allowed. Abolition of the "charge of solidarity".

## **Article 14**

### **Policies of Cooperation**

The States Members of the European Union will adopt joint measures to combat social, economic and cultural exclusion of residents in the European Union, promoting its integration in the proper territory of residence, safeguarding however its values when these do not oppose the principles consecrated in the Universal Declaration of the Rights of Men.

The States Members of the European Union will adopt joint measures that allow the establishment of systems of support that facilitate the voluntary rollback of the foreigners to the origin country, particularly of the specialized professionals.

The States Members of the European Union will adopt joint measures to end sales of weapons and of material normally used for torture to the countries that practise acts of violation of Human Rights.

The States Members of the European Union will adopt joint measures of economic and technological cooperation with Third Countries in order to allow its harmonious economic development, making available for the effect, at the very least, 0.7% of the National Budgets.

#### **Article 15**

##### **Fulfilment of Rights**

Any resident in a State Member of the Union European will be able to demand the fulfilment of the rights foreseen in this Charter next to the national institutions or, before the ineffectiveness of these, next to the communitarian institutions.

#### **Article 16**

##### **Prevalence of the most favourable treatment**

The general dispositions of the present Charter do not harm the national legislation, or any applicable treaties, that grants greater protection to the citizens of Third Countries.

#### **Article 17**

##### **Final Dispositions**

The States Members of the European Union will adopt, in the maximum stated period of two years, the legislative and administrative dispositions necessary to give fulfilment to the present Charter.



**SOS  
RACISMO**

Apartado 22508 1147-501 Lisboa  
Tel. 21 347 99 05/ Fax 21 342 15 57  
E-mail: [sosracis@esoterica.pt](mailto:sosracis@esoterica.pt)  
<http://www.sosracismo.pt>  
Nº cont: 503 106 054

P. C. de Utilidade Pública (DR 269 - 20/11/06)



**REDE ANTI RACISTA**

**Rede Anti-Racista (RAR)**  
Apart.22508 – 1147-501 Lisboa  
Portugal  
Tel. +351 213479905  
Fax: +351-213421557  
[Rantir@yahoo.com](mailto:Rantir@yahoo.com)