

**REPORT OF WORKING GROUP II “CHARTER
OF FUNDAMENTAL RIGHTS”**

Intervention by Mrs. Nelly Koutzkova, Alternate to the
Representative of the Bulgarian Government to
the European Convention

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Mr. President,
Dear colleagues,

I am glad to express my support for the final report as member of the Working group on the Charter of fundamental rights. I am happy that we succeeded to produce a document of no “majority” and “minority” opinions, which makes the consensual decision on the incorporation of the Charter possible. Finding such a balance was not an easy task. Therefore, let me congratulate all the members of the working group for their constructive attitude and especially Mr. Vitorino for his excellent and diplomatic chairmanship.

As already stated in the initial position of the Bulgarian Government we favour the incorporation of the Charter of Fundamental Rights in the future Constitutional Treaty, thus giving it a legally binding character. The European citizens will support a Constitution, where the protection of fundamental rights is given a central place. As to the technique for the Charter’s incorporation, both suggested options have comparative advantages. Yet, we would rather prefer the “B” option, which would provide for a more balanced and concise constitutional text.

Let me emphasize on the role of the drafting adjustments to the Charter’s “general provisions” in case of its incorporation. Without touching on the substance of the Charter’s provisions, these adjustments could be very important for the legal certainty in the area of human rights. Strengthening the horizontal clauses might prove an essential consensus-building element. These provisions guarantee the application of the principle of subsidiarity.

Another point concerns the explanations of the Praesidium of the previous Convention as well as those of the Working group itself. On the one hand, these are very helpful for the candidate countries, which did not participate in the work of the previous Convention. On the other, although having no legal value, they have particular importance for the interpretation of the Charter provisions and in particular for the distinction between “rights” and “principles”.

The Group left the question open as to whether the Constitutional Treaty should refer to the external sources of inspiration for fundamental rights, in particular the constitutional traditions and the European Convention on Human Rights. In my view, we should bear in mind that the Union exists in a dynamic environment in

which human rights will continue to develop. Therefore, referring to the external sources would help enrich the Union law and give additional protection to citizens.

Finally, endowing the Union with a single legal personality will practically mean that it will be constitutionally authorized to accede to the European Convention on Human Rights. The modalities of accession should be discussed only as a complementary step to the Charter's incorporation.

Thank you for your attention.