22. PROTOCOL ON ASYLUM FOR NATIONALS OF MEMBER STATES

THE HIGH CONTRACTING PARTIES,

WHEREAS, in accordance with Article I-9(1) of the Constitution, the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights;

WHEREAS pursuant to Article I-9(3) of the Constitution, fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, constitute part of the Union's law as general principles;

WHEREAS the Court of Justice of the European Union has jurisdiction to ensure that in the interpretation and application of Article I-9(1) and (3) of the Constitution the law is observed by the Union;

WHEREAS pursuant to Article I-58 of the Constitution, any European State, when applying to become a member of the Union, must respect the values set out in Article I-2 of the Constitution;

BEARING IN MIND that Article I-59 of the Constitution establishes a mechanism for the suspension of certain rights in the event of a serious and persistent breach by a Member State of those values;

RECALLING that each national of a Member State, as a citizen of the Union, enjoys a special status and protection which shall be guaranteed by the Member States in accordance with the provisions of Title II of Part I and Title II of Part III of the Constitution;

BEARING IN MIND that the Constitution establishes an area without internal frontiers and grants every citizen of the Union the right to move and reside freely within the territory of the Member States;

WISHING to prevent the institution of asylum being resorted to for purposes alien to those for which it is intended;

WHEREAS this Protocol respects the finality and the objectives of the Geneva Convention of 28 July 1951 relating to the status of refugees,

HAVE AGREED UPON the following provisions which shall be annexed to the Treaty establishing a Constitution for Europe:

Sole article

Given the level of protection of fundamental rights and freedoms by the Member States of the European Union, Member States shall be regarded as constituting safe countries of origin in respect of each other for all legal and practical purposes in relation to asylum matters. Accordingly, any application for asylum made by a national of a Member State may be taken into consideration or declared admissible for processing by another Member State only in the following cases:

(a) if the Member State of which the applicant is a national proceeds, availing itself of the provisions of Article 15 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, to take measures derogating in its territory from its obligations under that Convention;

(b) if the procedure referred to in Article I-59(1) or (2) of the Constitution has been initiated and until the Council, or, where appropriate, the European Council, adopts a European decision in respect thereof with regard to the Member State of which the applicant is a national;

(c) if the Council has adopted a European decision in accordance with Article I-59(1) of the Constitution in respect of the Member State of which the applicant is a national or if the European Council has adopted a European decision in accordance with Article I-59(2) of the Constitution in respect of the Member State of which the applicant is a national;

(d) if a Member State should so decide unilaterally in respect of the application of a national of another Member State; in that case the Council shall be immediately informed; the application shall be dealt with on the basis of the presumption that it is manifestly unfounded without affecting in any way, whatever the case may be, the decision-making power of the Member State.