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Annual Report  
on Human Rights  
2005



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## Preface

It is my pleasure to present the seventh EU Annual Report on Human Rights. The first Report was launched in 1999. Now, as then, we believe it is important that the Union should publicly set out its collective policy in the field of human rights, and the action it has taken to implement that policy.



The Report shows that the last year has witnessed advances, as well as setbacks, in the human rights field. It also illustrates the powerful impact the EU can have on human rights when it speaks with one voice. Whether engaging in large international fora, like the UN, or in bilateral discussions, the Report demonstrates that unity of purpose, alignment of policies, and joint action make a real difference, not just to setting the agenda, but to realising it. The Ukraine Presidential elections were an excellent example of this.

Just as human rights are universal, so are violations of human rights the valid concern of every state and every human being. In an interdependent world, the observance of human rights has become the lynchpin for sustainable progress. As Kofi Annan so eloquently put it in his report *In Larger Freedom*, “we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights”. At a time when many of our values have been under attack through terrorism, it is essential that we continue not just to re-affirm these values, but to insist on their universality.

Geography and history have shaped the EU's relationship with the world. We are particularly engaged with our near neighbours to the south and to the east through trade, culture, personal ties and mutual interests. But we are also developing ever-closer relationships with the rest of the world. This shared heritage, these living links, in a shrinking world, mean that we all have an obligation to promote the common principles and standards that sustain not just our prosperity and security but also our humanity.

Europe has seen the terrible consequences when these common values are abandoned. Recently I had the sad honour of representing the EU at the 10<sup>th</sup> anniversary of the massacre at Srebrenica, an evil which took place under the noses of the international community, and which we did not do nearly enough to prevent. The situations in Uzbekistan, Belarus and Chechnya present enormous human rights challenges. Other continents also bear the scars of continuing human rights abuses –the Democratic Republic of Congo, Sudan and Zimbabwe in Africa, Cuba and Colombia in the Americas, DPRK, Burma, and Nepal in Asia, and Iran and Syria in the Middle East – to name some of the most egregious cases. The only way out of such horrors, and to prevent their recurrence elsewhere, is to continue the slow, laborious and persistent process of co-operation, persuasion, inducement and, in the last resort, sanctions, as set out in this Report.

With its peace and prosperity, the EU is living proof that respect for human rights, democracy and the rule of law benefits everyone. The enlargement process is helping to spread those benefits ever wider on our continent. By working for others even further afield to enjoy similar respect, the EU seeks to create the conditions for a safe, secure and peaceful world in which all can realise their full potential as human beings, without regard to age, gender, sexual orientation, race, belief or nationality. These values underpin the EU's internal ethos. They remain central to the EU's foreign policy. I commend this Report.

Jack Straw  
Foreign Secretary of the United Kingdom,  
President of the Council of the European Union

## **1. Introduction**

This seventh European Union Annual Report on Human Rights covers the period 1 July 2004 to 30 June 2005.

The European Union is based upon, and defined by, its attachment to the principles of liberty, democracy, the rule of law and the respect for human rights and fundamental freedoms. Adherence to these principles constitutes the foundation and prerequisite for peace, stability and prosperity in any society. The EU firmly believes this to be a legitimate concern and an important responsibility of the international community.

The purpose of the report is to provide an overview of the work of the EU, through its institutions, in promoting human rights, democracy and good governance. These concepts form part of the foundations of the EU and are goals of its foreign and security policy, as well as underpinning EU co-operation for sustainable development. The report is only able to highlight those topics, institutions and countries where EU action has been particularly significant during the reporting period. This does not mean that the EU has failed to address human rights, democracy and good governance concerns in countries not addressed in detail in the report. Further, the report does not cover human rights work done by individual member states who, in addition to work at EU level, have implemented various human rights initiatives in their national capacity. It would simply be impossible, and not necessarily useful, to include all countries and topics in a comprehensive manner.

The report has also introduced some changes to previous formats. For the first time, the European Parliament has contributed a section on the work it has been doing for human rights. As the world's only directly elected multinational Parliament, it has long considered the promotion and protection of human rights, both inside and outside the EU, as one of its essential functions. The Parliament is frequently at the cutting edge of developing human rights and ensures that the other EU institutions keep human rights to the forefront of their attentions.

Where human rights has both an internal and an external dimension, the report deals with both aspects in the same chapter (Chapter 4) to underline the aim of coherence in EU policy. It has also made a start in trying to analyse the results of EU actions in terms of their impact. The report also contains illustrations of how the different instruments, especially financial ones, can be used to contribute to overall policy objectives. Information relating to the legal bases for EU work in these fields can be found on the websites listed in the Further Information Annex.

Although the upsets in the ratification process of the EU Constitutional Treaty have diminished the prospect of embedding human rights legally within the EU structures in the near future, the EU remains determined to respect human rights within its own borders and to continue to work for their observance outside them.

At a time when terrorist atrocities continue to be perpetrated around the world, the promotion of human rights as a means of combating intolerance and extremism remains more than ever relevant. The report demonstrates how the EU has been active in addressing this issue.

The victims of human rights abuses, those who are murdered, tortured, enslaved, silenced, repressed and discriminated against, and those who are attacked for defending them, look to the EU to live up to its commitments to act on their behalf. The efforts of the EU can never guarantee success, its ability to influence country situations is often very limited, and there is still a great deal that remains to be done in these fields. Nevertheless, this Annual Report on Human Rights demonstrates that persistence, conviction and co-operation, and use of all the tools available to it, do enable the EU to make a positive difference.

## **2. Developments within the EU**

The EU continues to develop mechanisms to help it strengthen human rights and democracy, both internally and externally, and this chapter examines the most recent developments. The future Fundamental Rights Agency will provide the relevant EU institutions and member states with expertise and assistance with regard to the implementation of Community law and the development of measures and actions affecting human rights questions. The Personal Representative on Human Rights will provide sustained support to external efforts. The process of embedding human rights protection in EU law continues piecemeal, as can be seen in other parts of this report looking at specific human rights topics. The work of the European Parliament to promote human rights is also set out in this chapter.

### **2.1. The Constitutional Treaty**

The Treaty establishing a Constitution for Europe was signed in Rome on 29 October 2004. The ratification process by EU member states is underway, with 13 EU member states having ratified the Treaty. Following the results of referenda in France and the Netherlands the European Council has agreed to a period of reflection, returning to the issue in early 2006.



There are already a range of provisions in the Treaty on European Union (TEU) and the Treaty Establishing the European Community (TEC) which are designed to promote human rights in the EU's external relations and development co-operation<sup>1</sup>. The Constitution would, however, serve to reinforce the protection and promotion of human rights both inside the EU, and in the external relations of the EU<sup>2</sup>. Examples of relevant provisions include:

- ⇒ Article I-2 would add new elements to the list of values on which the EU is founded: human dignity, equality, the rights of persons belonging to minorities, alongside the ones already existing in the current treaties, namely freedom, democracy, the rule of law and respect for human rights.
- ⇒ Article I-9 (2) of the Constitutional Treaty declares that “The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Constitution”. Article I-9 (3) states that fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and as they result from the constitutional traditions common to the member states, shall constitute general principles of the Union's law.
- ⇒ The Charter of Fundamental Rights, which was solemnly proclaimed at the Nice European Council in December 2000, is included in Part II of the Constitution<sup>3</sup>. Fundamental rights would be legally binding not only on the Union, its institutions, agencies and bodies, but also on the member states when they were implementing Union law. The inclusion of the Charter in the Constitution would not extend the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks defined in any other part of the Constitution;
- ⇒ Article I-3 includes the protection of children's rights in the internal and external objectives of the Union for the first time.

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<sup>1</sup> For example, Articles 6, 11 and 49 TEU and Article 177 TEC

<sup>2</sup> This section of the report draws on fact sheets available at: [http://europa.eu.int/constitution/index\\_en.htm](http://europa.eu.int/constitution/index_en.htm)

<sup>3</sup> The Explanations to the Charter are included as a Declaration to the Treaty.

## **2.2. The Fundamental Rights Agency**

In December 2003, the Heads of State or Government meeting within the European Council took the decision to build upon the existing European Monitoring Centre on Racism and Xenophobia (EUMC) and to extend its mandate to become a Human Rights Agency.

Through the Communication on the Fundamental Rights Agency<sup>4</sup>, the Commission carried out a wide-ranging public consultation on the competences and the tasks of the future Agency. The consultation targeted NGOs involved with the protection of human rights and all those involved in the development of the protection of fundamental rights in the EU. One hundred responses were received. In addition, a public hearing took place on 25 January 2005, with more than 200 participants.

The Commission adopted on 30 June 2005 proposals for a Council Regulation establishing a European Union Agency for Fundamental Rights and for a Council Decision defining the scope of the Agency's activities in areas referred to in Title VI of the Treaty on European Union. If the Regulation is approved by the Council, the Agency will operate within the competencies of the Community under the Regulation, but its scope would be extended to matters relating to police and judicial co-operation in criminal matters as a result of the parallel Council Decision.

The Commission proposals, now being discussed by EU member states, suggest that the objective of the Agency would be to provide the relevant institutions, bodies, offices and agencies of the Community and its member states with assistance and expertise relating to fundamental rights, in order to support them when they take measures or formulate courses of action within their respective spheres of competence to fully respect fundamental rights. The Agency would deal with fundamental rights in the Union and the member states when implementing Union law. According to the Commission proposals, the Agency could also deal with candidate countries and potential candidate countries. In addition, the Commission could request the Agency to submit information and analysis on third countries with which the Community had concluded association agreements or agreements containing provisions on respect of human rights, or with which it intended to open negotiations on such agreements.

The thematic areas of activity would be defined through a pluri-annual Framework, which would be determined by the Commission. Within these thematic areas, the Agency would, in complete independence, collect and assess data on the practical impact of Union measures on fundamental rights and good practices,

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<sup>4</sup> COM(2004)693 of 25 October 2004

express opinions on fundamental rights policy developments, raise public awareness and promote dialogue with civil society, and co-ordinate with various actors in this field. It should be emphasised that the Agency would have no complaint resolution mechanism. The Council may draw on the expertise of the Agency if it finds it useful during the procedure under Article 7 TEU (which relates to the risk of a breach of fundamental rights in a particular Member State). The Agency would not, however, carry out systematic and permanent monitoring of EU member states for the purposes of Article 7.

The Agency would complement the existing mechanisms of monitoring fundamental rights standards at the international, European and national level. It would collaborate closely with relevant organisations and bodies, including the Council of Europe and relevant Community agencies and Union bodies, in particular the European Institute for Gender Equality. If the proposed Regulation is adopted, the Agency should be operational as from January 2007.

#### **Action in the new member states**

With an amendment to the 2004 budget, the European Parliament asked the Commission to adopt and carry out a ‘Preparatory action aiming at supporting local NGO activities in the ten new Member States on respect for rule of law, democracy, fundamental rights, transparency, the non-partisan nature of information and combating corruption.’

The objective is to reinforce civil society in the ten member states which joined the EU on 1 May 2004.

The 2004 budget foresaw an allocation of EUR 3 million. A call for proposals was published in November 2004, and the Commission received 180 proposals which are under assessment. In addition, pilot projects to inform citizens about fundamental rights and the Charter of Fundamental Rights throughout the EU territory received financing in 2004. The amount available for 2004 was EUR 0,75 million. The call for proposals concerning this action was closed in September 2004, with six projects selected for grants. Finally in April 2005, the Commission adopted a proposal for a framework programme on Fundamental Rights and Justice for the period 2007-2013 (COM (200) 122 of 6 April 2005). The Framework programme consists of four specific programmes, one of which concerns Fundamental Rights and Citizenship, with a proposed allocation of EUR 96.5 million for the period concerned

### **2.3. Appointment and role of Secretary-General/High Representative's (SG/HR) Personal Representative on Human Rights**

In December 2004 the European Council "welcomed the decision to appoint a Personal Representative of the SG/HR on Human Rights in the area of Common Foreign and Security Policy (CFSP) as a contribution to the coherence and continuity of the EU Human Rights policy, with due regard to the responsibilities of the Commission". In January 2005 Javier Solana, EU High Representative for the CFSP, appointed Michael Matthiessen as his Personal Representative on Human Rights. The Personal Representative's sphere of action focuses on implementation of Human Rights Guidelines, EU Policy in the UN, Council of Europe and OSCE, the human rights dialogues, mainstreaming, relations with the European Parliament, visibility of EU human rights policy and outreach activities.

During the period covered by this report the Personal Representative contributed to the mainstreaming of human rights throughout the EU institutions. He enhanced the EU's visibility at the 61<sup>st</sup> session of the UN Commission on Human Rights and lobbied effectively for EU positions. He further participated in the human rights dialogue with China and in consultations with the Russian Federation. Through a number of contacts with the Political and Security Committee he contributed to raising awareness of human rights issues. Since being appointed Michael Matthiessen has met a number of human rights defenders and has developed close contacts with the European Parliament, as well as with relevant actors of the UN, Council of Europe and the OSCE.

### **2.4. The European Parliament's actions on human rights**

The European Parliament is a strong voice for human rights and democracy issues. It contributes to the formulation and implementation of policies in the field of human rights through its resolutions, reports, missions to third countries, human rights events, interparliamentary delegations and joint parliamentary committees with third countries, oral and written questions, special hearings on individual questions and its annual Sakharov Prize. The President of the European Parliament also regularly takes up human rights issues with the representatives of third countries.

The Subcommittee on Human Rights within the Foreign Affairs Committee, which was reconstituted at the start of the 6th legislative term under the chairmanship of H el ene Flautre (Greens/ALE), has developed into a focal point of human rights questions in the Parliament. It is the body responsible for parliamentary initiatives in this sphere and provides a permanent forum for discussions with human rights activists on the human rights situation and democracy in non-EU countries.

Its main aim is to mainstream human rights issues into all aspects of the external relations of the EU. It makes efforts to monitor and evaluate the implementation of EU instruments in the human rights field. In this regard, the Subcommittee gives a particular emphasis to the implementation of EU Guidelines on human rights defenders.

A major event for the Parliament is the annual session of the United Nations Commission on Human Rights (UNHCR) in Geneva, where Members meet with the UN High Commissioner, the EU Presidency and member states' ambassadors as well as with non-governmental organisations.

In view of the session, Parliament adopts a resolution by which it addresses recommendations to the Commission and the Council for the EU position to be taken in the negotiations with other countries. In the resolution of 24 February 2005, apart from a list of countries and territories among which featured Chechnya, China, Iran, Zimbabwe, Sudan, Uzbekistan and Turkmenistan, the Parliament mentioned in particular such thematic issues as the protection of human rights in the fight against terrorism, freedom of expression, the rights of the child, trafficking in human beings and human rights defenders. As far as economic, social and cultural rights are concerned, the Parliament stressed the need to address by a resolution the issue of corporate social responsibility in the area of human rights.

The delegation to the annual session of the UNCHR, as well as numerous exchanges of views with the Council at the level of the Subcommittee and plenary as a follow-up to the session, allow the Parliament to evaluate the degree of implementation of its recommendations by the Council. (See chapter 5.2 for more information on the UNCHR).

As part of the Foreign Affairs Committee, the Subcommittee has followed the reform proposals for the UNCHR and human rights policies in the UN at large. In this context, the Subcommittee invited the UN High Commissioner on Human Rights to present her views on this matter.

More generally, in the reporting period the Subcommittee on Human Rights organised a number of hearings on human rights issues. The topics covered were: human rights issues in Cuba, Turkey, Syria, Iran, Iraq, and in the European Neighbourhood Policy, and the human rights and democracy situation in Central Asia.

Besides the Subcommittee on Human Rights, a working group within the Committee on Development holds regular meetings on human rights in developing countries or on specific subjects such as child soldiers or child slaves with both human rights NGOs and representatives of governments concerned. Parliament also has a regular dialogue with the OSCE parliamentary assembly and the Council of Europe. In this context, there is a continuing dialogue with the office of the Commissioner on Human Rights of the Council of Europe. Furthermore Parliament's inter-parliamentary delegations regularly discuss human rights issues with a variety of countries.

The main forum for political dialogue between the EP and parliamentarians from African, Caribbean and Pacific countries is the EU-ACP Joint Parliamentary Assembly. The Euro-Mediterranean Assembly provides opportunities for a parliamentary dialogue on issues of human rights and democracy with Mediterranean countries. In this context, a hearing was held on freedom of expression and the development of parliamentary democracy in the Euro-Mediterranean Region.

By participating in election observation missions, the European Parliament makes a further contribution to strengthening human rights and democracy in third countries. For more information on Election Observation Missions, see chapter 4.9 of this report.

At around the same time as this EU annual report on human rights is published by the Council of Ministers, the European Parliament begins drafting an Annual Report on the human rights situation in the world and EU human rights policy, which in 2004 was drafted by Simon Coveney (EPP-ED).

The related resolution<sup>5</sup> provided an overview of the main human rights concerns in individual countries organised by regions and discussed seven specific thematic issues in depth. These were human rights and the fight against terrorism, children's rights, the impact of conflict on women and children, the death penalty, trafficking in human beings and human organs, child prostitution and child labour, the role of international business in human rights, impunity and the role of the International Criminal Court.

In 2004, the European Parliament awarded its annual Human Rights Prize, the Sakharov Prize for Freedom of Thought, to the Belarusian Association of Journalists in recognition of its outstanding commitment to the cause of freedom of speech and the promotion of independent journalism in Belarus, despite the continuous danger of persecution by the Belarusian authorities.

***"Awarding the Sakharov Prize 2004 to the Belarusian Association of Journalists, which fights for freedom of information against the attempts by President Lukashenko to smother it, is a very positive event. The results of the latest elections in this country make it clear that those fighting for freedom of information in Belarus and everywhere else in the world deserve our support."***  
*President of European Parliament Josep Borrell Fontelles*

The Belarusian Association of Journalists (BAJ), a non-governmental professional union, acts to protect the legitimate rights of journalists and promotes the principles of free and professional journalism in Belarus. In 2004 the pressure of the Belarusian authorities on independent media significantly increased. The state continued to silence critical voices, constantly fined, suspended and closed newspapers, intimidated and harassed media representatives and resorted to criminal prosecution of journalists, and in several cases sentenced them to terms of internal exile for allegedly slandering the Belarusian President. The BAJ representing nearly 1000 media workers from across the country performs monitoring and publishing of conflicts and violations of law in the field of mass media in Belarus. The BAJ consulted newspapers in trouble and appealed to the authorities to take relevant measures. In other cases, immediate action by the BAJ made it possible to charge the persons responsible for threats of murder against journalists. Despite the lack of an independent judiciary in Belarus, BAJ lawyers were often successful in protecting journalists and media in court.

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<sup>5</sup> The resolution is available at: [http://www.europarl.ep.ec/comparl/afet/droi/annual\\_reports.htm](http://www.europarl.ep.ec/comparl/afet/droi/annual_reports.htm)

Of substantial significance during 2004 was the special ceremony for the 1995 Sakharov Prize laureate Leyla Zana, the former Kurdish MP in Turkey. When the Parliament awarded her the prize, Leyla Zana had already been imprisoned for one year and was unable to collect the Prize personally. After having spent 10 years in prison, she was finally released on 9 June 2004 and could address the plenary of the European Parliament in this special ceremony, which took place on 14 October 2004.

An important aspect of Parliament's activities are the resolutions on particular human rights violations in specific countries and, in particular, on individual cases, which are dealt with in the monthly debates on urgent subjects. Council, Commission and the governments involved are urged to take action. The reactions of these governments suggest that they are sensitive to criticism by the European Parliament.

Individual cases raised by Parliament included political prisoners, prisoners of conscience, journalists, scientists, trade unionists and human rights defenders in jail, harassed or under threat.

During the period of reporting, Parliament denounced in resolutions, inter alia: the situation of Professor Yuri Bandazhevsky, the Belarusian scientist, sentenced in 2001 to 6 years' hard labour for denouncing the health situation in Belarus after the explosion of the Chernobyl nuclear power plant; Mikhail Marynich, ex-Minister, former Ambassador and presidential candidate in 2001, sentenced to three and a half years' imprisonment on politically motivated charges as well as Valery Levonesvsky and Alexander Vasilyev, condemned to two years in prison on a charge of defaming the President of Belarus; Dawit Isaak, the Swedish citizen and journalist, arrested in September 2001 in Eritrea following the ban on independent press; Roy Bennett, elected member of parliament, sentenced to 12 months imprisonment with hard labour in 2004 as a victim of a campaign of persecution by the Mugabe regime in Zimbabwe; Javed Hashmi, opposition leader in Pakistan, sentenced to 23 years in jail on charges of criticising the army in Pakistan; Daw Aung San Suu Kyi, still under house-arrest, and other party members of the National League for Democracy which won the vote in 1990 elections in Burma (Myanmar) and yet has been prevented from taking office by the military regime; and three MPs of the opposition Sam Rainsy Party in Cambodia whose parliamentary immunity had been lifted.



The European Parliament has used its budgetary powers to increase substantially the resources earmarked for programmes dealing with democracy and human rights financed under a separate budget chapter, created at the initiative of the EP, the "European Initiative for Democracy and Human Rights" (EIDHR). For more information on the EIDHR, see section 3.6 of this report.

Issues concerning human rights within the EU fall under the remit of the Committee on Civil Liberties, Justice and Home Affairs which deals with the status of respect for fundamental rights in the EU. The Foreign Affairs Committee and its Subcommittee on Human Rights co-operate closely with this Committee to monitor the external effect of internal policies, especially concerning the issues of asylum and migration.

If EU citizens consider that their fundamental rights have been violated, they can take the matter up with the European Ombudsman or the Petitions Committee of the European Parliament. The Ombudsman deals with complaints relating to the activities of EU bodies, whereas the Petitions Committee examines petitions concerning breaches by member states of their treaty obligations. Not infrequently, member states are required to modify their legislation to bring it into line with Community law as a result of subsequent treaty infringement proceedings.

An overview of the main European Parliament's activities in the field of human rights in external relations can be found at

<http://www.europarl.ep.ec/comparl/afet/droi/default.htm>.

### **3. EU Instruments and Initiatives in third countries**

The EU has a number of instruments at its disposal to promote human rights in third countries. These include five EU Guidelines on Human Rights on issues of particular importance to EU member states, which have been adopted by the Council since 1998. These Guidelines cover the death penalty (adopted 1998); human rights dialogues (adopted 2001); Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 2001); Children and Armed Conflict (adopted 2003), and Human Rights Defenders (adopted 2004). They are available in all EU languages, plus Russian, Chinese and Arabic, from the Council Secretariat website (<http://ue.eu.int/Human-Rights>). In May 2005, the Council Secretariat also produced these Guidelines in booklet form, in English and in French<sup>6</sup>. Details of action taken to implement these Guidelines during the period under review are included in Chapter 4.

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<sup>6</sup> Details of sales and subscriptions available at <http://publications.eu.int>

This chapter gives an overview of other legal and policy instruments during this period.

### **3.1. Common Strategies, Joint Actions, Common Positions**

This section gives an overview and update on Common Strategies, Joint Actions and Common Positions in force during the reporting period.

#### *Common Strategies*

The aim of Common Strategies is to set objectives and increase the effectiveness of EU actions through enhancing the overall coherence of the Union's policy. They are adopted by the European Council (Heads of State or Government) to be implemented by the Union in areas where the member states have important interests in common. No new Common Strategies were adopted during the period of this report.

#### *Joint actions*

Joint actions address specific situations where action by the Union is deemed to be required. In the period covered by this report, the EU has adopted a considerable number of joint actions relevant to human rights. These joint actions related primarily to the appointment of EU Special Representatives and to civilian and military crisis management operations.

#### *Crisis management operations*

Considerable progress was made in the implementation of the Action Plan for the Civilian Aspects of the European Security and Defence Policy (ESDP), which was endorsed by the European Council in June 2004. A Civilian Capabilities Commitment Conference was organised, resulting in a Ministerial Declaration on Civilian Capabilities that was endorsed by the Council in November 2004. Indicative commitments of the EU member states in the areas of policing, rule of law, civilian administration and civil protection exceeded the targets set by the European Council. States also committed resources for monitoring and the generic support functions of civilian crisis management missions and the EU Special Representatives.

The development of European civilian capabilities to achieve the Civilian Headline Goal 2008 has been actively pursued in accordance with the deadlines set by the December 2004 European Council.

It has thus been possible to prepare the strategic planning assumptions and illustrative scenarios concerning stabilisation and reconstruction, conflict prevention, targeted strengthening of institutions and civilian support for humanitarian operations. A capabilities requirement list has now been prepared and EU member states are considering how these needs might be met. Work on the rapid deployment of civilian crisis management capabilities has also continued.

Of general importance to crisis management operations was the fact that on 23 May 2005 the Council took note of generic standards of behaviour to be applied to all personnel taking part in European Security and Defence Policy (ESDP) operations. Also, on 13 June the Council encouraged its competent bodies to pursue further work in areas related to standards of behaviour and other aspects of UN Security Council Resolution 1325 on women, peace and security. Obviously, civilian and military crisis management operations are strongly related to human rights issues, and potentially play an important role in the implementation of the EU Guidelines on human rights, in particular those relating to children and armed conflict.

On 1 January 2003 the European Union Police Mission (EUPM) was launched. This mission was the EU's first operation under the ESDP. The EUPM followed on from the UN International Police Task Force in Bosnia and Herzegovina. This mission continued in the period under review. On 2 December 2004, the European Union launched a military operation, ALTHEA, in Bosnia and Herzegovina (BiH). Following a hand-over of responsibilities from NATO, the EU deployed a military force, EUFOR, with a UN Chapter VII mandate to ensure the continued compliance of BiH with the Dayton/Paris Agreement and to contribute to a safe and secure environment.

The EU Rule of Law Mission in Georgia, EUJUST Themis<sup>7</sup>, that has been deployed to assist the Georgian government in the development of a strategy to guide the criminal justice reform process, entered its last phase of operations on 20 May 2005<sup>8</sup>. On that date, the Government of Georgia approved the strategy and set up a steering group responsible for developing a programme for its implementation.

The period right after the expiration of the mandate of EUJUST Themis was expected to be crucial for the momentum gained in the rule of law reforms. On 9 June 2005 the Political and Security Committee agreed on the modalities of the follow up to EU support in the implementation of the strategy for reform of the Georgian criminal system.

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<sup>7</sup> Joint Action 2004/523/CFSP OJ L 228, 29.6.2004, p.21.

<sup>8</sup> The mission terminated on 15 July 2005.

In March 2003 the EU started its first military operation Concordia in the former Yugoslav Republic of Macedonia, that ended in December 2003. As a follow-on mission the EU launched in December 2003 the European Union Police Mission (EUPOL Proxima) to the former Yugoslav Republic of Macedonia.<sup>9</sup> This is the EU's second civilian crisis management operation under ESDP. In November 2004 the mandate of the mission was extended until 14 December 2005<sup>10</sup>.

In November 2004, the Council decided<sup>11</sup> to offer financial support and technical assistance in order to set up the Light Weapons Unit within the Economic Community of West African States' (ECOWAS) Technical Secretariat and to help transform the Moratorium on Small Arms and Light Weapons into a Convention.

On 13 May 2004, the EU adopted a Joint Action providing EU support to the establishment of an Integrated Police Unit (IPU) in the Democratic Republic of Congo (DRC).<sup>12</sup> In April 2005 the EU launched the European Police Mission EUPOL Kinshasa to support the training and equipping of the IPU, enabling the unit to contribute to ensuring the protection of the State institutions and to reinforce the internal security apparatus. On 2 May 2005 the EU adopted a Joint Action providing advice and assistance for security sector reform in the DRC<sup>13</sup>. The EU launched the mission (EUSEC DR Congo) on 8 June 2005 with the aim of contributing to the successful integration of different militias into the army in the DRC in close co-operation and co-ordination with the other actors in the international community.

The EU is committed to supporting the African Union's (AU) AMIS mission in Darfur. The EU expects to second policing advisors and trainers at the beginning of September to provide support to the AMIS II Police Chain of Command and provide training for AMIS's own police trainers. The EU also plans to help strengthen the AU's policing capacity more generally, through the development of a policing unit within the AU Secretariat in Addis Ababa.

Information on the EU's integrated Rule of Law Mission in Iraq can be found in chapter 6.5; and information regarding the EU's participation in the Aceh Monitoring Mission can be found in chapter 6.4.

### *EU Special Representatives*

Over the past few years the EU has appointed an increasing number of EU Special Representatives (EUSRs) who contribute to peace settlements and post-conflict reconstruction in a number of regions or countries in the world. The EUSRs have a potential to contribute substantively to the implementation of the EU Human Rights Guidelines.

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<sup>9</sup> OJ L 249, 1.10.2003, pp. 66-69.

<sup>10</sup> JA 2004/789/CFSP OJ L 348, 24.11.2004.

<sup>11</sup> 2004/833/CFSP OJ L 359, 04.12.2004, p. 65.

<sup>12</sup> OJ L 182, 19.5.2004, p. 41.

<sup>13</sup> OJ L 112, 3.5.2005, p. 20

On 23 March 2005, the EU appointed a new EU Special Representative for Moldova, Ambassador Adriaan Jacobovits de Szeged<sup>14</sup>. His mandate focuses on the EU's contribution to the settlement of the Transdnistria conflict. It also includes the fight against the trafficking of human beings and of weapons and other goods from and through Moldova. In addition, the EUSR maintains an overview of all EU activities, notably relevant aspects of the ENP Action Plan with Moldova, which was signed at the EU-Moldova Cooperation Council on 22 February 2005.

During the reference period, the EU SR for the South Caucasus, Ambassador Heikki Talvitie, in the framework of his mandate<sup>15</sup>, continued to assist Armenia, Azerbaijan and Georgia in carrying out political and economic reforms, including in the field of human rights.

The EU has reached an agreement to appoint an EU SR for Central Asia<sup>16</sup>, Ambassador Jan Kubis. His mandate will be based on the policy objectives of the EU which include contributing to strengthening of democracy, rule of law, good governance and respect for human rights and fundamental freedoms "in Central Asia".<sup>17</sup>

In February 2005 the Council adopted the Joint Actions extending for 6 months and amending the mandates of the EUSRs for Afghanistan, for the Middle East Peace Process, for the African Great Lakes Region, for the South Caucasus, for Bosnia and Herzegovina and the former Yugoslav Republic of Macedonia (fYROM).<sup>18</sup> The extensions followed an overall review of the mandates carried out on the basis of the EUSR guidelines on appointment, mandate and financing, adopted by the Council in June 2004. In July 2005, the mandates were extended for another period of 6 months, with the exception of the EUSR for fYROM, whose mandate will have to be reviewed in November 2005.<sup>19</sup>

#### *Common Positions*

Common Positions define the approach of the Union to a particular matter of general interest of a geographic or thematic nature; member states must ensure that their national policies conform to the Common Positions. For examples of human rights-related Common Positions drawn up by the EU during the period of this report, see chapter 6.

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<sup>14</sup> Joint Action CFSP/2005/265.

<sup>15</sup> Joint Action 2003/872/CFSP OJ L 326, 13.12.2003, p.44.

<sup>16</sup> Council Conclusions of 13 June, 2005.

<sup>17</sup> The Joint Action concerning the appointment of Mr. Kubis was adopted on 18 July 2005; On the same day the Council adopted a Joint Action concerning the appointment of an EU SR for Sudan, M. Haavisto.

<sup>18</sup> OJ L 326, 13.12.2003, pp. 37-46.

<sup>19</sup> OJ L 234, 3.7.2004, pp. 13-18.

### **3.2. Démarches and Declarations**

Démarches on human rights to the authorities of third countries and press statements are important instruments of the EU's foreign policy, and the Conclusions of meetings of the Council may equally address human rights issues. Démarches are usually carried out in a confidential manner, either in 'Troika' format or by the Presidency. In addition, the EU can make public declarations calling upon a government or other parties to respect human rights, or welcoming positive developments. These declarations are published simultaneously in Brussels and in the Presidency's capital.

Démarches and declarations are widely used to convey concerns related to human rights. The main subjects tackled by them are protection of human rights defenders, illegal detention, forced disappearances, the death penalty, torture, child protection, refugees and asylum seekers, extra-judicial executions, freedom of expression and of association, and the right to a fair trial, as well as the need for free and fair elections. Démarches and declarations may also be employed, however, in a positive sense. For example, démarches are used to encourage third countries to lobby for support for a particular initiative in the promotion of human rights, such as ratifying a human rights-related international convention, and declarations may be made to welcome or encourage a particular initiative.

In the period under review, the EU has carried out démarches throughout the world to seek support for EU initiatives at CHR and the UN General Assembly (UNGA), for the human rights aspects of UN reform as well as in support of the Rome Statute of the International Criminal Court (ICC). In addition démarches relating to human rights have been made to, inter alia: Albania, Algeria, Angola, Bangladesh, Barbados, Belarus, Burma/Myanmar, Chad, China, Colombia, Cuba, Egypt, Eritrea, Gambia, India, Indonesia, Iran, Israel, Japan, Kazakhstan, Kuwait, Libya, Maldives, Moldova, Nepal, Nicaragua, Saudi Arabia, Pakistan, West Bank/Gaza Strip, Rwanda, Sri Lanka, Syria, Thailand, Trinidad and Tobago, Turkmenistan, Uzbekistan, USA, Venezuela, Vietnam.

During the same period, the EU made human rights-related declarations concerning, inter alia: Albania, Angola, Azerbaijan, Belarus, Bolivia, Burma/Myanmar, Burundi, Central African Republic, Cambodia,

China, Côte d'Ivoire, Cuba, DRC, Ethiopia, FYROM, Georgia, Guinea-Bissau, India, Indonesia, Iran, Kosovo, Kyrgyzstan, Liberia, Malawi, Malaysia, Moldova, Mozambique, Nepal, Nicaragua, Palestinian Authority, Rwanda, Serbia and Montenegro/Kosovo, Senegal, Somalia, Sri Lanka, Sudan, Tadjikistan, Togo, Tunisia, Ukraine, Uzbekistan, Venezuela, Zimbabwe.

### **EU Human Rights Declarations - Daw Aung San Suu Kyi**

*As an example of third country action taken by the EU on human rights, the full text of a declaration issued in 2004 regarding Daw Aung San Suu Kyi is reproduced below.*

Declaration by the Presidency on behalf of the European Union on the extension of detention of Daw Aung San Suu Kyi, published in The Hague and in Brussels on 10 December 2004.

The EU condemns the continued detention of Daw Aung San Suu Kyi and regrets that although a small number of political prisoners have been released, a large number remain in detention.

The EU recalls its earlier position in this matter that, in order to improve its relations with the EU, the government of Burma/Myanmar should take the following steps:

- the immediate release of Daw Aung San Suu Kyi and all political prisoners;
- The participation of the NLD and other democratic parties and all ethnic groups in the National Convention, which is announced to resume in February 2005;
- The resumption of the National Convention with genuine and open debate for all participants.

The EU continues to urge the government of Burma/Myanmar to grant without further delay to the UN Secretary General's Special Envoy for Burma/Myanmar, Tan Sri Razali Ismail, and to the UN Special Rapporteur, Paulo Sergio Pinheiro, complete, free, unrestricted access to Burma/Myanmar.

The EU welcomes the findings of the ASEAN parliamentarians on Burma/Myanmar in Kuala Lumpur on 28 November 2004 and encourages the governments and parliamentarians in the ASEAN countries to keep monitoring the situation in Burma and to continue to work with the regime to promote democracy.

The Candidate Countries Bulgaria, Romania, Turkey and Croatia\*, the Countries of the Stabilisation and Association Process and potential candidates Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Serbia and Montenegro, and the EFTA countries Iceland, Liechtenstein and Norway, members of the European Economic Area, align themselves with this declaration.

\* Croatia continues to be part of the Stabilisation and Association Process

### **3.3. Human Rights Dialogues and Ad Hoc Consultations**

#### **3.3.1. Human Rights Dialogue with China**

The EU and China have held human rights dialogues for almost 10 years, guided by benchmarks set out by the Council. The human rights situation, and the impact of the dialogue upon it, was evaluated by the Council in October 2004, resulting in Council Conclusions and oral briefings to the European Parliament and to NGOs. The overall assessment of developments showed a mixed picture of progress in some areas and continuing concerns in others. On the one hand, the Council acknowledged that China has made considerable progress over the last decade in its social-economic development and welcomed steps towards strengthening the rule of law, while urging China to ensure effective implementation of such measures. On the other hand, the Council expressed concern that, despite these developments, violations of human rights continued to occur, such as freedom of expression, freedom of religion, freedom of assembly and association, lack of progress in respect for the rights of persons belonging to minorities, continued widespread application of the death penalty, and the persistence of torture. All in all, the Council considered the dialogue a valuable instrument and an important element of overall EU-China relations and endorsed proposals for improving the dialogue and the accompanying expert seminars aimed at encouraging tangible results on the ground.

In the period covered by this report, two dialogues and two seminars took place. The 18th dialogue took place in Beijing on 24 September 2004 and was preceded by a Troika visit to Tibet. The 19th round took place on 25-26 February 2005 in Luxembourg.



The EU was represented by the Council Working Party on Human Rights (COHOM) Troika, which in 2005 was assisted by the newly appointed High Representative's Personal Representative on Human Rights. China was represented by officials of the Ministry of Foreign Affairs, including their Special Representative on Human Rights, and included officials of other Ministries, the National People's Congress and the Supreme Court. Both meetings were preceded by a meeting at political level during which the EU raised a number of key concerns, stressing in particular the release of prisoners connected with the 1989 events in Tiananmen Square, speedy ratification and implementation of the International Covenant on Civil and Political Rights (ICCPR), reform of the re-education through labour system (RTL) and the importance of allowing for greater freedom of expression, including on the internet.

The 2004 dialogue had as one of its main themes freedom of religion and belief, in particular in Tibet. The 2005 dialogue focused on the more general theme of human rights and the rule of law. As always, the EU handed over a list of individual cases of concern, on which China provided replies in writing. In line with the benchmarks, specific concerns raised at both dialogues included: ratification of ICCPR and legislative reforms needed to implement its provisions; rights of ethnic minorities in Tibet and Xinjiang; abolition and application of the death penalty and the need to obtain statistics on its use; reform of the RTL system and similar institutions, without judicial overview, used for misdemeanours; prevention and eradication of torture and rights of prisoners; independence of judges, the right to legal counsel and a fair and impartial trial; protection of human rights when countering terrorism; co-operation with the UN, in particular with special procedures and with the OHCHR, UNHCR, ICRC and the ICC. The EU also called on China to apply the principle of “non-refoulement” to North Korean refugees in China in line with China's international obligations. In 2004, attention was paid also to protection of social and economic rights and discrimination against persons affected by HIV/AIDS. In 2005 both sides also discussed priorities for the UN Commission on Human Rights.

The Chinese side informed the EU of a number of legislative reforms taken or under way, including a review by the Supreme Court of all death penalty cases, a special court for minors, regulations on interrogation and detention and rights of prisoners in the context of a nation-wide campaign to prevent and eradicate torture, and planned reform of the RTL system. Information was also provided on a series of new regulations regarding, inter alia: demolition of houses, legal assistance to vulnerable sections of society, measures to

promote democratic governance at village level and new regulations in the field of criminal procedures. China also updated on progress made towards ratification of the ICCPR. They confirmed once again the invitation to the UN Special Rapporteur on Torture and a planned visit of the UN High Commissioner for Human Rights Louise Arbour and informed the EU about the visit of the Working Group on Arbitrary Detention. Familiar replies were given on questions relating to freedom of expression, freedom of religion and belief including Falun Gong, and freedom of association. China raised concerns about racism and xenophobia in the EU. Although the 2004 dialogue coincided with a visit to China by the Envoys of the Dalai Lama, discussion on the rights of persons belonging to minorities showed little common ground. The visit of the Troika to Tibet allowed for meetings with a wide variety of representatives, including of monasteries, but largely confirmed EU concerns. Through the dialogue these different views were openly discussed.

The EU and Chinese authorities organised two human rights seminars within the framework of the dialogue, one in The Hague, on 8-9 November 2004 and one in Beijing on 20-21 June 2005. They focused on the themes "Ratification and Implementation of the ICCPR" including derogations and limitations and "Right to health" including HIV/AIDS (2004), freedom of expression and the death penalty (2005). At the Beijing seminar, representatives of NGOs, academia, the European Parliament (for the first time), the National People's Congress, representatives of member states' foreign ministries and various Chinese ministries participated. On 1 July 2004, a seminar on the ratification of ICCPR took place in Beijing which included the participation of legal experts from EU member states and China.

In addition to the human rights dialogue, the EU and its member states continued to push for concrete steps to enhance the effective enjoyment of human rights in China at other EU political dialogue meetings with China, including at the highest political level, as well as through bilateral technical co-operation and exchange programmes. In between dialogue sessions, démarches were carried out on particular cases of concern. Unfortunately the limited action of the Chinese government meant that very few individuals were released early and new names were added to the list of individual cases of concern in the course of the year.

The EU is in regular contact with other countries maintaining a human rights dialogue with China, through the "Berne process".

### **3.3.2. Human Rights Dialogue with Iran**

Human rights are an essential element of the EU's overall relations with Iran, as with any other country. The human rights dialogue, which was the first to be set up in accordance with the 2001 EU Guidelines on Human Rights Dialogues, is one of the EU's main tools to promote human rights there. Although a lot remains to be done in Iran in the field of human rights, the EU believes that engaging with Iran is a way to encourage those who want to promote reforms there.

Since 2002 the EU has held four sessions of the human rights dialogue with Iran, with the last occurring in June 2004. The dialogue is based on a number of mutually agreed principles and on concrete benchmarks, which include every area of concern to the EU: Iran's signature, ratification and implementation of international human rights instruments; co-operation with international procedures; openness, access and transparency; and improvements to civil and political rights, the judicial system, the prevention and eradication of torture, criminal punishment, discrimination and the prison system. A broad range of participants were associated with these dialogues including the Government, the Judiciary, academics, and civil society. The human rights dialogue is a channel to express the EU's concerns to Iran and for Iran to raise its concerns with the EU. The EU has used the dialogue in the past to raise individual cases, for example prisoners of conscience, and plans to do this again at the next round. A crucial element of the dialogue is the opportunity for mutual assessment and review. However an evaluation conducted in 2004 showed a bleak picture. Hardly any progress on the ground was observed, and the EU saw a real need to update the modalities of the dialogue.

The Council therefore decided in October 2004 that a renewed commitment by Iran to respect human rights and the rule of law was needed if the dialogue was to be pursued and that modalities were to be adapted with a view to enhancing the effectiveness of the dialogue.

In April 2005 the EU Troika discussed these issues with the Iranian government. On the basis of the report of the Troika mission, COHOM considered that dates for a further session should be proposed to Iran, noting that this would be a test of Iran's commitment to improving human rights through the dialogue.

### **3.3.3. Human Rights Consultations with Russia**

Following endorsement at the EU-Russia Summit in November 2004, the EU and Russia started consultations on human rights on 1 March 2005 in Luxembourg. Both sides agreed that the consultations were an important part of overall EU-Russia relations and agreed to hold human rights consultations on a regular, semi-annual basis. In the consultations, a lengthy discussion on Chechnya took place, focusing in particular on the human rights situation in the region, as well as on measures taken by the Russian authorities in response to recurrent human rights abuses such as disappearances. The EU side presented its plans for a socio-economic needs assessment mission to the North Caucasus. The human rights situation in general in Russia was also discussed, in particular the state of media freedoms and the situation of minorities in Russia (such as the Finno-Ugric indigenous peoples). Russia raised human rights concerns in the EU and was informed by a representative of the European Monitoring Centre for Racism and Xenophobia (EUMC) who was invited as an expert.

International human rights issues were also on the agenda. The EU and Russia discussed in detail priorities for the 61st session of the CHR, touching on possible thematic and country resolutions as well as no-action motions. Russia updated on the recent visits by the UN High Commissioner for Human Rights and the Special Rapporteur on Violence Against Women. The EU asked Russia to reply positively to requests for visits and information by other Special Rapporteurs and Working Groups. With regard to co-operation in the framework of the Organisation for Security and Co-operation in Europe (OSCE) and the Council of Europe (CoE), discussions focused on recognition of the judgements of the European Court for Human Rights, the reports of the Committee for the Prevention of Torture (CPT) and the visit of the Commissioner for Human Rights of the Council of Europe, Mr Alvaro Gil-Robles.

Both sides issued press statements following the meeting and letters were exchanged between the heads of the delegations to ensure follow up to the consultations. The EU also issued a press statement on the human rights situation in the Russian Federation, in particular in Chechnya, during the CHR in Geneva. In addition to the consultations, the EU continued to raise human rights concerns with Russia at other political dialogue meetings, including at the highest level.

A second round of these consultations is expected to take place in September 2005.

### **3.4. Troika Consultations on Human Rights with US, Canada, Japan, New Zealand and Candidate countries**

#### *Troika consultations with the US*

As in previous years, the EU and the US held consultations on human rights issues prior to the UNGA Third Committee in October 2004 (in The Hague) and prior to the CHR in February 2005 (in Brussels). The meetings were used to provide information on and seek support for thematic and country priorities and to decide on common aims and initiatives, such as the resolution on the human rights situation in Belarus tabled both in New York and Geneva. These consultations laid the groundwork for constructive and fruitful co-operation in the framework of UNGA and CHR.

The EU and the US discussed the human rights situation in a number of countries, in particular those possibly subject to a resolution, as well as respective policies vis-à-vis these countries. They provided an update on human rights dialogues and consultations with third countries. Both sides expressed an interest in working together in defence of human rights defenders. They also held a first exchange of views on proposals relating to the human rights aspects of UN reform and the functioning of CHR.

The consultations also provided a good opportunity to discuss differences in approach. The EU raised concerns regarding the death penalty, focusing in particular on executions of juvenile offenders and access to consular assistance for foreign nationals in the light of recent court cases. On both occasions, there was a frank discussion on the impact of counter-terrorism measures on international efforts to promote human rights protection, touching inter alia on the situation of prisoners in Guantanamo Bay and Iraq and the issue of rendition. The EU asked the US to react positively to the request by the UN Special Rapporteurs to visit Guantanamo Bay and other places where alleged terrorists are being held. The US informed about current legal proceedings and indicated that it would follow up with the UN Special Rapporteurs in Geneva. The US raised concerns relating to anti-Semitism in Europe. They also asked for EU support for the Community of Democracies.

#### *Troika consultations with Canada*

Consultations on human rights with Canada took place prior to the UNGA Third Committee in October 2004 and prior to CHR in February 2005. The meetings as usual focused on co-operation in these two fora with regard to country specific and thematic resolutions.

The EU and Canada further exchanged views on the need to improve co-ordination between like-minded countries. Canada shared the EU's ideas about the adoption of a more strategic approach. In a discussion about UN reform Canada underlined that mainstreaming of the human rights dimension in the overall UN system was essential.

#### *Troika consultations with Japan*

EU-Japan consultations on human rights took place in October 2004 and in March 2005. Japan stressed the importance it attached to co-ordination with the EU and was keen to be informed about the EU-China dialogue and the EU-Russia consultations. It informed the EU about the dialogue with Cambodia that had been launched recently.

Japan told the EU that according to a recent enquiry more than 80% of the population were in favour of maintaining the death penalty; in the light of this result, Japan considered a discussion about the abolition of death penalty would not be very successful. Japan raised questions about the Disability Convention.

#### *Troika consultations with New Zealand*

During the consultations on human rights in February 2005 New Zealand stressed its wish to strengthen co-operation with the EU. New Zealand announced that it would undertake no new initiatives, but would seek to strengthen existing ones, among which the Rights of the Child resolution was a priority. New Zealand shared the EU's view that the Rights of the Child resolution could be shortened and given more focus.

New Zealand briefed the EU that while it did not have a formal human rights dialogue with China, it had received an impressive number of Chinese delegations who wanted to learn about administrative practices. New Zealand systematically addressed human rights issues with these delegations.

### *Troika consultations with Candidate countries*

The annual exchange of views took place on 22 February 2005 in Brussels. The EU informed candidate countries Romania, Bulgaria and Turkey of its preparations for CHR 61 and other priority issues in the field of human rights, and asked their support for EU initiatives. Romania, Bulgaria and Turkey informed about their preparations for CHR and their general human rights policy. Other issues discussed were third country initiatives expected at CHR, ongoing discussions in Geneva on Special Procedures, and the resolution on the Rights of the Child and the Community of Democracies.

### **3.5. Human Rights clauses in co-operation agreements with third countries**

In the context of the European Community's trade and co-operation agreements with third countries, the Commission regularly reviews the respect, by third country partners, of international human rights standards. In line with the "human rights clause" of such agreements, the Commission has taken the initiative to establish, within the framework of regular joint committee consultations with a number of countries, dedicated working groups on human rights and good governance. The first meetings of the EC-Vietnam and EC-Laos Working Groups on Institution-building, Administrative Reform, Governance and Human Rights took place in June 2005.

In the framework of the European Neighbourhood Policy (ENP), which enhances the Barcelona process, the Commission has issued country reports on all Mediterranean countries of the Barcelona process with which Association Agreements are in force, as well as on Eastern European countries with which Partnership and Cooperation Agreements are in force. These country reports are publicly available and include a chapter on human rights and fundamental freedoms, as do the ENP Action Plans which have been or are being negotiated with these countries. The priorities set up in the ENP Action Plans, and their concrete follow-up, are discussed in the relevant Subcommittees covering human rights and democracy. Some of these Subcommittees already exist under Partnership and Cooperation, or Association, Agreements with particular countries, whilst others are now being established, for example with Jordan, Morocco and Tunisia. In June 2005 the Sub-Committee on Human Rights for Jordan was the first to convene.

The EU views human rights clauses in agreements with third countries as an incentive for the promotion of human rights. The Commission issued in May 1995 a Communication on *the inclusion of respect for democratic principles and human rights in agreements between the Community and third countries* which includes a list of targeted measures that may be taken in response to serious human rights violations or serious interruptions of democratic process. Such measures, ranging from the alteration of the contents of co-operation programmes to the suspension of elements of the agreement, are regularly applied. However, the principal role of the clause is to provide the EU with a basis for positive engagement on human rights and democracy issues with third countries.

### **3.6. Activities funded under the European Initiative for Democracy and Human Rights (EIDHR)**

The European Initiative for Democracy and Human Rights is the main dedicated EU budget for promoting human rights, democracy and the rule of law. In 2004 its resources amounted to over EUR 100 million, to fund a wide range of projects in 32 countries covering four priority areas, the promotion of democracy, the rule of law and good governance, abolition of the death penalty, combating torture and impunity, support for the international criminal tribunals and the International Criminal Court, combating racism and xenophobia and discrimination against minorities, as well as the protection of the rights of indigenous peoples.

At the end of June 2005, the EIDHR was supporting more than 1000 projects around the world, covering the full range of priorities as set out in the basic regulations and in the programming document. Activities have been taking place at country level, regional level or globally. From April 2004, management of EIDHR country level projects was decentralised from Brussels to EC delegations as part of the deconcentration process. Dialogue between organisations implementing activities and the EC now takes place locally, which enables more effective sharing of information and networking between EIDHR partners, as well as with EU Missions and EC Delegations.

As in previous years, the selection of new projects continued in three different ways:

#### *Projects identified through global calls for proposals*

Five global calls for proposals were launched during July and August 2004. One call aimed to support International Justice with a budget of EUR 4.7 million, another the abolition of the death penalty with a budget of EUR 2 million. The third was aimed at strengthening Burmese civil society with a budget of EUR 1.5 million.



Two calls addressed torture, one for activities to prevent the use of torture with a budget of EUR 6 million, the other for the rehabilitation of victims of torture with a budget of EUR 10 million. In January 2005 a further three calls were launched, one in support of indigenous peoples with a budget of EUR 5.7 million, another to select projects fighting racism & xenophobia with a budget of EUR 5 million, and finally a call for regional Human Rights Masters Programmes with a budget of EUR 5.5 million. The Commission will award grants to most of the successful proposals later in 2005.

*Projects selected through country-specific calls for proposals*

An amount of EUR 17.58 million was made available for calls for proposals launched by EC delegations in 40 countries. Such country-specific calls are launched to identify projects for smaller scale grants between EUR 10.000- EUR 100.000 and are normally open only to country-based organisations. In this way the EIDHR is able to support local civil society and define the precise priorities relevant to each country where these micro-projects are implemented. In 2004, 414 new project grants were awarded by EC delegations for EIDHR micro-projects.

*Projects selected without a call for proposals*

In 2004 27 projects were selected without a call for proposals, including Election Observation Missions, with an EU contribution of EUR 31.878.720. Major grants were made to organisations such as the Office of the High Commissioner for Human Rights, Council of Europe, OSCE and the international tribunals. More information on election observation missions can be found in chapter 4.9.

A list of projects funded from the EIDHR budget during the reporting period can be found in Annex I.

*Evaluation of completed EIDHR projects<sup>20</sup>*

In 2004, a study was commissioned by the EC to look into the results and impact of 48 macro projects funded under the EIDHR and completed between January 2002 and July 2003. The study was delivered in March 2005. Based on desk studies and 29 field visits, the study assessed whether projects achieved their objectives and took stock of their relevance in light of the needs of the country and the specific target groups. The study also examined project methodology, sustainability, budget, cost-effectiveness and the management capacity of the implementing organisations. Projects included in the study covered most areas of EIDHR priorities and all regions. 58% of the organisations implementing the projects have their headquarters in the EU, 33 % in the countries included in the programme and 8% were implemented by UN agencies.

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<sup>20</sup> “Synthesis Report on the ex-post Assessment of EIDHR projects completed between January 2002 and July 2004” written by Plancenter Ltd and Tea Cegos

After combining results from the different evaluation criteria, including relevance and implementation aspects, the study showed that 70% of the projects scored *excellent* or *good*<sup>21</sup> in the assessment.

Overall, the study concluded that projects had clearly defined and strategically chosen beneficiaries (involved in the project activities) and target groups (those ultimately benefiting from the projects). Among beneficiaries, NGOs promoting human rights and democracy are key players, as well as journalists and the media. Government officials, including parliamentarians and police, are also involved in many EIDHR projects. Target groups are most often identified as citizens in general, human rights activists, minorities and children.

The study suggests that many organisations implementing projects have a limited understanding of the EIDHR as a global programme. Furthermore beneficiaries and target groups should be more involved in needs assessment and formulation of projects proposals, as well as in the follow-up and evaluation. Potential synergies with other EC or non-EC funded activities in related areas are not explored sufficiently.

Asked about their views on the EC as a donor, in comparison to other donors, a general picture emerged of the EC as lacking in flexibility. However, once funding is obtained, EC funding is perceived as carrying major advantages: the EU is seen as a major player in the field of democracy and human rights promotion in the world; EU funding is often substantial and implies political backing for the organisations.

#### *The EIDHR in 2005-6*

The EIDHR will be re-cast in 2005-6 into four major thematic campaigns designed to ensure that projects at the global, regional and country level reinforce each other.

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<sup>21</sup> The scale used is: A=Excellent, B=Good, C=Generally adequate with some good and poor aspects, D=Major problems and E=Failure

### **3.7. Analysis of effectiveness of EU instruments and initiatives**

This chapter demonstrates many of the effective ways in which the EU instruments have been used to actively promote human rights. The EU aims to be a "convincing power" rather than an "imposing power", with engagement and dialogue as the preferred means of interaction with third states, and effectiveness the aim. For example, the emphasis in civilian crisis management, as with the EU Special Representatives, is on practical assistance that will have a direct impact on the situation.

The EU has to seek a balance between persuasion and critical action. Promoting human rights involves building relations of trust, having a genuine exchange of views, setting conditions for fruitful co-operation and offering assistance to meet them, but being willing to indicate clearly when red lines have been crossed.

Available instruments include incentives as well as restrictive measures. The EU is a major donor and trade partner but does not shy away from suspending certain provisions of co-operation agreements, introducing critical resolutions at major UN fora or a visa ban, or sending teams of civilian and military staff, until a human rights situation improves. As the level of human rights violations increases, the strength of EU actions increases too. But it is important to keep learning the lessons about the effectiveness of actions. The coherence of the EU's actions in the field of human rights and, in particular, the co-ordinated use of the various tools at its disposal continues to present a key challenge for the Union.

In order to enhance the consistency and coherence of EU human rights policy and to strengthen EU external performance, during the Dutch Presidency COHOM took the initiative to periodically review all EU human rights dialogues. Given the central role of COHOM in the initiation, monitoring and evaluation of the structured and ad-hoc dialogues and consultations on human rights, and in accordance with its extended mandate, it is important that COHOM maintains an overview of all dialogues on human rights by means of a discussion twice a year in the working group on the basis of an updated overview and a calendar of ongoing dialogues on human rights.

There are many challenges ahead and COHOM assesses once a year the implementation of EU human rights policy and makes recommendations (see Council Conclusions December 2004, doc. 15817/3/04). One

important challenge is, and will probably remain, to ensure coherence of human rights policy with overall EU Common Foreign and Security Policy (CFSP). That is one of the reasons why the Council welcomed the appointment by the SG/HR for CFSP, Javier Solana, of a Personal Representative for Human Rights. Key to coherence is effective mainstreaming. Therefore, individual EU member states, the Council Secretariat and the Commission are committed to effectively mainstream human rights in their own institutions. An area of particular importance in this regard is the whole area of civilian and crisis management.

Another key challenge is implementation. There are now a number of human rights Guidelines in place. Major UN human rights conventions have attracted significant numbers of ratifications. The norms and aims are clear, they now have to be applied. This may not be the strongest side of the EU, but it is keenly aware of this task and efforts are made to live up to expectations. To this end, over the past year the dialogues with China and Iran were evaluated in depth, in line with the EU Guidelines on human rights dialogues. These dialogues have had mixed results. While they cannot yet realistically lay claim to major changes, either in attitude or action, they do permit a frank exchange of views and are an important means of supporting reformers in the countries concerned. The EU has been encouraged by some signs of progress in the China dialogue, and is working to reinforce the dialogue's effectiveness, for example by focusing each session of the dialogue on one theme. However as indicated, there has been little overall progress since the EU-Iran dialogue began.

It is too early to evaluate progress in the EU-Russia consultations, which were only launched in May 2004. Troika consultations with the US, Canada, Japan and New Zealand have helped align common approaches.

As the various boxes in this report (see in particular chapter 4) demonstrate, the EIDHR supports a range of vital human rights work in third countries. EU political priorities are reflected in the programming of community aid. However, given that the EC is required to award grants through open competitive calls for proposals that attract a considerable number of proposals, the project-selection process can mean that project proposals which correspond to the EU's political priorities do not receive sufficiently swift support.

Greater effort accordingly needs to be made to reduce the gap between priority setting (through programming) and its implementation. Moreover, the lack of information about the impact of previously funded projects on the human rights situations that they addressed remains a concern, given that policy should be based on the evidence of results.

The European Parliament plays a very wide-ranging role in promoting human rights. It has undertaken activities that are topical and specific, as well as focused on issues, like UN reform, that are more long-term in their impact. In addition, the Parliament continues to keep up pressure on both the Commission and the Council to sustain their efforts in these fields. The active involvement of MEPs in election observation missions demonstrates how all three EU institutions effectively co-operate together.

#### **4. Thematic issues**

##### **4.1. The death penalty**

The EU has actively pursued its policy against the death penalty during the period covered by this report. The EU is opposed to the death penalty in all circumstances and systematically upholds this position in its relations with third countries. It considers that the abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights.

The Guidelines on EU policy towards third countries on the death penalty (adopted in 1998) provide the basis for action of the Union. These guidelines provide criteria for making representations and outline minimum standards to be applied in countries retaining the death penalty. The EU also presses, where relevant, for moratoria to be introduced as a first step towards the abolition of the death penalty.

*General representations* consist in the EU raising the issue of the death penalty in its dialogue with third countries. Such démarches occur particularly when a country's policy on the death penalty is in flux, e.g. where an official or de facto moratorium on the death penalty is likely to be ended, or where the death penalty is to be reintroduced through legislation. Similarly, a démarche or public statement may be made where countries take steps towards abolition of the death penalty. *Individual representations* are used in specific cases where the European Union becomes aware of individual death penalty sentences which violate minimum standards. These standards provide, inter alia, that capital punishment cannot be imposed on those who were under the age of 18 when committing the crime, pregnant women or new mothers, and persons

who are mentally disabled. The EU raised the question of the death penalty with the governments of Japan, the USA, China, Pakistan, Syria, Kuwait, Barbados, Yemen, the Palestinian Authority, Libya, Iran, Uzbekistan, Sri Lanka, Vietnam, India, Indonesia and Bangladesh.

According to Amnesty International's report for 2004, nearly 4,000 people were executed worldwide in 2004. More than half of these executions took place in China. Iran had the second highest number with at least 159 executions, followed by Vietnam with at least 64 and the USA with 39. It should be noted, however, that the number of executions in the USA has been steadily declining over the past years<sup>22</sup>.

The EU is pleased that 44 of the 46 Council of Europe member states have ratified Protocol No.6 to the European Convention on Human Rights concerning the abolition of the death penalty. The Russian Federation and Monaco have yet to ratify Protocol 6. As regards Protocol No 13, which bans the death penalty in all circumstances, including in wartime, 32 member states have now ratified it, including 18 EU member states.

Among the positive developments, the following five countries abolished the death penalty for all crimes in 2004: Bhutan, Greece, Samoa, Senegal and Turkey. With respect to Kyrgyzstan, President Akayev announced that the moratorium on executions, in place since 1998, would be extended for one more year. Regarding Tajikistan, the moratorium in place was endorsed on 8 July 2004 by a law "on the suspension of the application of the death penalty".

With regard to action in multilateral fora, the EU continued its well-established practice of initiating a resolution on the death penalty at the UN Commission on Human Rights (CHR). All EU member states supported the resolution on extra-judicial, summary or arbitrary executions presented by Finland at UNGA Third Committee. The resolution, adopted at the 61st Session of the CHR in 2005, presented by Sweden and co-sponsored by 81 countries, reiterated the call for a world-wide moratorium on executions and called on states to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aims to abolish the death penalty. In its statement to the Commission, the EU regretted the end of moratoria in Lebanon and Indonesia, and the end of the de facto moratorium in India; called on Burundi, Sri Lanka and Mauritania not to re-start executions; and regretted the interruption of the moratorium in Afghanistan, as well as the decision by the Iraqi interim government to reintroduce the death penalty into its legislation.

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<sup>22</sup> Other reporting suggests that some of these figures may be conservative. The true figures are likely to be higher, given the difficulty in compiling statistics.

With respect to EU action in the United States, there have been some notable rulings of the US Supreme Court. Following *Atkins v Virginia*, in which the Court held that the execution of the mentally retarded was in violation of the US Constitution, many mental retardation cases have been stayed pending mental evaluation. The State courts are struggling with the definition of mental retardation owing to the fact that the US Supreme Court left this critical decision to the States. Many lawyers are now challenging the convictions of their clients based on the *Atkins* decision.

The US Supreme Court, in an important ruling of 1 March 2005, declared executions of minors unconstitutional in the case of *Simmons v Missouri*. It is significant that the EU had submitted an *amicus curiae* (“friend of the court”) brief to the Court in this case. The Supreme Court also specifically referred to “the weight of international opinion” among the motives for its decision.

The Second World Congress against the Death Penalty took place in Montreal, Canada on 6-9 October 2004. This was an important gathering of those involved in the fight against the death penalty worldwide, organised by the NGO coalition: “Together against the Death Penalty”. Discussions covered a broad range of issues, including enhanced strategies for abolition, especially with respect to the USA and Japan. The EU was represented by the Dutch Presidency and member states, the European Parliament Human Rights Subcommittee and the Commission.

The World Day against the Death Penalty was celebrated immediately after the World Congress, on the 10 October, in a public demonstration in the streets of Montreal in Canada.

## **EIDHR: The Application of the Death Penalty in Commonwealth Africa: ' Legal Tools for Commonwealth Africa'**

25 of the 78 countries which continue to apply the death penalty for ordinary crimes are situated in the African continent. The British Institute of International and Comparative Law (BIICL) implemented the project across 13 countries: Botswana, Cameroon, Ghana, Kenya, Lesotho, Swaziland, Malawi, Nigeria, Tanzania, Uganda, Zambia, Zimbabwe and Sierra Leone. The project addressed the identified need for comparative legal information on the death penalty in Commonwealth Africa and more importantly, the lack of an information sharing network at a regional level on this topic. The project aimed to strengthen the capacity of lawyers and judges to challenge the death penalty through the compilation of legal materials, specific to each of the target countries, and legal materials based on the comparable aspects of the legal systems in the countries involved.

*The Human Rights Manual and Sourcebook for Africa*, due to be published in 2005, is the culmination of this research into relevant jurisprudence, case studies on successful death penalty litigation (for example in Uganda) and conditions on death row in each of the target countries. Simultaneously, an information-sharing network of lawyers, judges and civil society groups has also been established to share successful strategies and experiences on the death penalty. Training courses and workshops for African judges and lawyers on how to use comparative legal materials have also been conducted during 2004 and 2005 in partnership with the Bar Human Rights Committee in the UK. The project ended in June 2005.

### **4.2. Torture, and other cruel, inhuman and degrading treatment or punishment**

In line with the EU Guidelines against Torture adopted by the Council in April 2001<sup>23</sup>, the EU has sustained its action to combat torture with initiatives in international fora, bilateral representations to third countries and substantial support for projects.

During the 59<sup>th</sup> session of the UN General Assembly and the 61<sup>st</sup> UN Commission on Human Rights (CHR), Denmark submitted resolutions on torture which were adopted by consensus in both bodies, with co-sponsorship by all EU member states. In statements to those fora, the EU reiterated the absolute prohibition on torture and other cruel, inhuman and degrading treatment or punishment in international law and

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<sup>23</sup> [http://www.europa.eu.int/comm/external\\_relations/human\\_rights/torture/guideline\\_en.htm](http://www.europa.eu.int/comm/external_relations/human_rights/torture/guideline_en.htm)



underlined its concern at the use of torture in several countries and regions, including Belarus, Chechnya, Cuba, Iran, Burma/Myanmar, North Korea, Pakistan, Saudi Arabia and Zimbabwe. The EU also referred to the ill treatment exposed at the Abu Ghraib detention centre and called upon Algeria, Egypt, India, Indonesia, Israel, the Russian Federation, Tunisia and the USA to extend an invitation to the Special Rapporteur on Torture. Furthermore, the EU called on States to consider signing and ratifying the Optional Protocol to the Convention Against Torture (OPCAT), which will institute a complementary system of national and international visiting mechanisms to inspect places of detention. At present there are 37 signatories and 10 ratifications of OPCAT, with 14 signatories and 3 ratifications by EU member states.<sup>24</sup> Moreover, EU representatives observed and reported on the examinations of periodic reports during the meetings of the UN Committee Against Torture in May 2005.

The role of trade, in particular goods used in torture, is of critical concern to the EU and has been the subject of a report by the UN Special Rapporteur on Torture<sup>25</sup>. The EU Guidelines commit the EU to preventing the use, production and trade of equipment which is designed to inflict torture or other cruel, inhuman or degrading treatment or punishment. Significant progress has now been achieved in fulfilling this commitment. The EU adopted on the 27 June 2005 a Regulation<sup>26</sup> which prohibits the export and import of goods whose only practical use is to carry out capital punishment or to inflict torture and other cruel, inhuman or degrading treatment or punishment. The export of goods which could be used for such purposes is also subjected to authorisation by EU Member State authorities. This welcome step will serve to reinforce the global fight against torture. The EU hopes that other states will introduce similar legislation.

In line with the EU Guidelines, the EU has also continued to raise concerns on torture with third countries through political dialogue and démarches. Such contacts address both individual cases and wider issues. In 2005, the EU decided to raise the issue of torture systematically with all countries, including a series of

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<sup>24</sup> see [http://www.apt.ch/un/opcat/opcat\\_status.shtml](http://www.apt.ch/un/opcat/opcat_status.shtml)

<sup>25</sup> Pursuant to the request of the Commission on Human Rights to study the trade and production of equipment specifically designed to inflict torture or other cruel, inhuman and degrading treatment (resolutions 2001/62, para. 9 and 2002/38, para. 13), the Special Rapporteur presented a preliminary study at the fifty-ninth session (E/CN.4/2003/69) and the issue is further addressed in the report [E/CN.4/2005/62](http://www.ohchr.org/english/issues/torture/rapporteur/index.htm) available at: <http://www.ohchr.org/english/issues/torture/rapporteur/index.htm>

<sup>26</sup> Official Journal (L2000, July 30 2005) "Règlement (CE) n° 1236/2005 du Conseil du 27 juin 2005 concernant le commerce de certains biens susceptibles d'être utilisés en vue d'infliger la peine Capitale, la torture ou d'autres peines ou traitements cruels, inhumains ou dégradants.

démarches to urge those countries which have not ratified the UN Convention Against Torture to do so<sup>27</sup>. To facilitate informed dialogue, the EU has instituted a system of regular confidential reporting on human rights, including on torture, by its Heads of Mission in third countries and has provided Heads of Mission with a checklist designed to provide a solid basis for raising the issue in political dialogue.

The prevention of torture and the rehabilitation of torture victims is a major priority for funding under the European Initiative for Democracy and Human Rights (EIDHR). EUR16 million was committed for projects in this field in 2004. The themes selected for support are designed to reinforce EU policy: for example, awareness-raising on OPCAT and investigation into the supply of torture technology. In 2005, torture prevention and rehabilitation will be retained as a priority under the EIDHR campaign “Fostering a Culture of Human Rights”.

***EIDHR: The Istanbul Protocol: Fighting Torture through law and medicine***

The two-year ‘Istanbul Protocol Implementation Project’ was launched by the International Rehabilitation Council for Torture Victims (IRCT) in 2003 with funding from the European Initiative for Democracy and Human Rights (EIDHR).

The project was based on the fact that - despite universal legal prohibition of torture - torturers are seldom punished and torture victims rarely get any kind of redress as compensation for their suffering. Impunity for torturers remains an important impediment for the effective prevention of torture. The close collaboration between doctors and lawyers is crucial in the effective investigation of alleged cases of torture, and the Istanbul Protocol represents an important tool in this context as it contains detailed procedures and practical advice for medical and legal experts on how to recognise and document symptoms of torture in order that the documentation may serve as valid evidence in court.

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<sup>27</sup> 139 States have ratified the Convention

The overall aim of the project was to promote national endorsement and implementation of the Protocol in five pilot countries - Georgia, Mexico, Morocco, Sri Lanka and Uganda - thereby developing a framework for implementation on a global scale. The project has addressed the great need for dissemination of knowledge and building of expertise in the field with training seminars, reaching a total of 244 health professionals and 123 legal experts representing both governmental and non-governmental organisations. It has provided a significant starting point for improved documentation and reporting in the five target countries and has sparked off a number of concrete new initiatives, such as the establishment of the New Forensic Physicians Society in Georgia.

The project has been carried out in partnership with the World Medical Association, the Human Rights Foundation of Turkey, Physicians for Human Rights, Redress Trust and a range of national partners. The intention is to consolidate current initiatives while extending the project to five new countries. Future project plans will also address the need to share the knowledge and data accumulated in rehabilitation centres with relevant stakeholders.

### **4.3. Rights of the Child**

The promotion and protection of the rights of the child are an important aspect of EU internal and external policies.

Developments in the internal context in the past year include an agreement in December 2004 between the European Parliament and the EU Telecommunications Council to follow up the *Safer Internet programme* (1999-2004). One of the programme's aims is to protect children from web-based sexual exploitation. "Safer Internet plus" covers four themes: fighting illegal content, tackling unwanted and harmful content, promoting a safer environment and awareness-raising. The four-year programme (2005-2008) will have a budget of EUR 45 million and it will focus more closely on end-users: parents, educators and children. The programme includes European networks of hotlines allowing the public to report illegal content such as child pornography, illegal adult pornography and racism on the Internet.

Following the adoption by the Commission on 30<sup>th</sup> April 2004 of a proposal for a Recommendation of the European Parliament and of the Council on *the protection of minors and human dignity and the right of reply in the European audiovisual and information services industry*<sup>28</sup> the Council took note on 16 November 2004 of the general approach advocated and the proposal remains under consideration in the Council and European Parliament.

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<sup>28</sup> [http://europa.eu.int/comm/avpolicy/legis/key\\_doc/legispdffiles/com04-341-en.pdf](http://europa.eu.int/comm/avpolicy/legis/key_doc/legispdffiles/com04-341-en.pdf)

The proposal deals with media education programmes, the right of reply across all media, the sharing of experience and good practices between regulatory bodies dealing with the rating or classification of audio-visual content, and action against discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation in all media.

As of 1 March 2005, judgements regarding parental responsibility are recognised throughout the EU pursuant to Council Regulation (EC) No. 2201/2003 (“the new Brussels II Regulation”). The new rules reinforce the fundamental right of the child to maintain contacts with both parents when they live in different member states by allowing judgements on visiting rights to circulate freely between member states. The Regulation seeks also to effectively solve the problem of parental child abduction within the EU by imposing strict rules to assure the immediate return of the child.

In co-operation with Latin American countries, the EU tabled resolutions on the rights of the child at the annual sessions of the UN General Assembly (UNGA) and the UN Commission on Human Rights (CHR), highlighting a wide range of concerns. In both fora, the traditional consensus on the resolution was again broken, with the USA calling a vote<sup>29</sup>. US difficulties included language relating to the Convention on the Rights of the Child and the International Criminal Court. The CHR resolution included a request to the Secretary-General to submit a report to its next session in 2006 with information on the status of the Convention on the Rights of the Child and the children’s rights issues addressed in the resolution.

The EU has also intensified action to implement the EU Guidelines on Children and Armed Conflict which were adopted in December 2003. The Guidelines commit the EU to addressing the impact of armed conflict on children through monitoring and reporting by EU Heads of Mission, EU Military Commanders and Special Representatives, démarches, political dialogue, multilateral co-operation and crisis management operations.

A range of priority countries for EU action have been identified by the Council Working Group on Human Rights (COHOM) where the situation of children affected by armed conflict is particularly serious: Burundi, Colombia, Cote d’Ivoire, DRC, Liberia, Rwanda, Sierra Leone, Sri Lanka, Sudan and Uganda. In order to

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<sup>29</sup> In UNGA, the voted result was 170 for, 2 against (US and Palau) and 3 abstentions (Iraq, India and Indonesia). In CHR the US was the only country to vote against.

establish a solid basis for EU action, Heads of Mission in most of these countries have submitted reports containing analysis of six priority areas: recruitment and deployment of children by armies and armed groups, killing and maiming of children, attacks against schools and hospitals, blockage of humanitarian access, sexual and gender-based violence against children and the abduction of children. Drawing on these reports, a plan of action was adopted<sup>30</sup> by the Political and Security Committee in December 2004, which identifies particular themes for increased and more comprehensive EU diplomatic and political interventions and project support in identified countries. Member states were invited to indicate, on the basis of their priorities, which themes they have a particular interest in and where they are prepared to increase their efforts. The plan also highlights the situation in Afghanistan, Burma and Nepal and requests reports from EU Heads of Mission in these countries. In June 2005, COHOM agreed terms of reference for EU troika démarches in twelve countries, with a view to setting out in detail the EU's position to the governments concerned.

A review of the implementation of the Guidelines<sup>31</sup> was conducted in 2004 and sets out progress in the principal areas of concern. In line with the Guidelines, a comprehensive review will be undertaken during the UK Presidency.

Specific provision has been made in the programming of the European Initiative for Democracy and Human Rights (EIDHR) for 2005-6 for project support to advocacy, awareness raising and training in the field of children's rights.

As regards the furtherance of children's needs and rights in EU development policy, the European Commission signed a Strategic Partnership with the International Labour Organisation (ILO) in July 2004 which has, as one priority, the prevention of child labour. A EUR15 million action programme with the ILO IPEC (International Programme for the Elimination of Child Labour), focusing on primary education as the key to fighting child labour, is currently being finalised. EC education policy is firmly anchored in the international community's commitments to education as defined in the Millennium Development Goals

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<sup>30</sup> Available at: <http://ue.eu.int/showPage.asp?id=927&lang=en&mode=g>

<sup>31</sup> See: <http://ue.eu.int/showPae.asp?id=927&lang=en&mode=g>

(MDGs) and the Education for All (EFA) goals, and focuses on basic education and gender equality. Overall, the EC allocated an estimated EUR 260 million<sup>32</sup> to education during 2004. The vast majority of these funds target basic education for children. The EC is also discussing with EU member states and ACP Partners support (EUR 63 million) to the Fast Track Initiative for basic education in several ACP countries.

In March 2002 the Commission adopted a Communication on "*Health and Poverty*" which establishes an EC policy framework to guide investment in health and AIDS prevention among poor people to achieve the health MDGs. One of its four strands relates to the protection of the most vulnerable –including children– from poverty through support for equitable and fair health financing mechanisms. The [Council Resolution on 'Health and Poverty'](#) was subsequently adopted on 30 May 2002 and refers to increasing the volume and improving the delivery of aid. A substantial share of that increase should go to support for social development in developing countries with special emphasis on improving health and education outcomes, many of them related to child health indicators. EC support to health in over 100 developing countries during 2004 has totalled approximately EUR 600 million<sup>33</sup>. Most of this support to the health sector has been moving towards a sector-wide approach where child health is a priority.

Orphans and vulnerable children affected by HIV/AIDS are subject to increased risks of human rights abuse. The Commission has programmed an average of over EUR150 million (period 2003-6) annually to tackle HIV/AIDS in developing countries, through support to country programmes, global initiatives (Global Fund to Fight HIV/AIDS, tuberculosis and malaria); NGOs; research in partnership with developing countries or in humanitarian emergencies. The new European policy framework for external action to confront HIV/AIDS, malaria and tuberculosis, adopted in October 2004, puts a stronger emphasis on human rights and human security. This includes children's rights and more attention to the plight of orphans and vulnerable children. In the Programme for Action adopted in April 2005 there are several specific actions with a focus on orphans and vulnerable children.

In addition to integrating and mainstreaming gender issues into development co-operation<sup>34</sup>, the EC continued to pay attention to the sexual and reproductive health and rights of women and girls (see chapter 4.5 for more details).

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<sup>32</sup> This covers support to ACP countries within the timeframe of the 9<sup>th</sup> EDF (2003-2007). For ALAMED (Asia, Latin America, Euro-Mediterranean partnership) countries, the programming periods vary from 2002-2004 to 2002-2006.

<sup>33</sup> Data from the population and development evaluation, and several services in Europeaid, ECHO and DG Research, Training and Development.

<sup>34</sup> In 2001, the Commission adopted a Programme of Action for the mainstreaming of gender equality in Community Development Co-operation (COM (2001) 295).

With a view to the effective “mainstreaming” of children’s rights generally in European Commission policy, specific training sessions on children’s rights for EC officials were undertaken in July 2004, October 2004 and April 2005, in close co-operation with the UNICEF Innocenti Research Centre. In addition, a new informal inter-institutional group on children’s rights was launched in September 2004, drawing together representatives of the European Commission, Council Secretariat and European Parliament. The group aims for closer co-ordination amongst EU institutions and co-operates closely with NGOs.

Following a decision of the European Commissioners’ Group on Fundamental Rights, Anti-Discrimination and Equal Opportunities in April 2005 to work towards a Commission Communication on children’s rights, covering both internal and external policy, the Commission convened a conference with NGOs, UNICEF and other interested actors in June 2005. The Communication is expected to be adopted by the end of 2005.

The European Parliament’s report on human rights in the world 2004 includes sections on children’s rights<sup>35</sup> and the impact of conflict on women and children. In addition, the Parliament adopted a report in July 2005 on the exploitation of children in developing countries, with a special focus on child labour, setting out recommendations to address the issue more effectively in EU policy and funding programmes. The ACP-EU Joint Parliamentary Assembly<sup>36</sup> was also active in this field including through the adoption in April 2005 of a resolution on *the progress made in achieving universal primary education and gender equality in the ACP countries in the context of the Millennium Development Goals*.

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<sup>35</sup> Available at: <http://www2.europarl.eu.int/omk/sipade2?PUBREF=-//EP//TEXT+AGENDA+20050427+SIT+DOC+XML+V0//EN&LEVEL=2&NAV=S&LSTDOC=Y&L=EN>

<sup>36</sup> The Assembly brings together elected representatives of the European Parliament and the elected representatives of the African, Caribbean and Pacific states ("ACP countries") that have signed the Cotonou Agreement.

***EIDHR: Leave No Child Out – furthering children’s rights in the New Independent States***

Thorough training and awareness-raising amongst key actors such as parliamentarians, government officials, the police and media, is an important element in the EU’s strategy to promote children’s rights globally. The European Initiative for Democracy and Human Rights (EIDHR) is supporting a major UNICEF initiative in Central and Eastern Europe and the Commonwealth of Independent States: “Leave No Child Out”. The programme commenced with an assessment of the needs of the region with regard to children’s rights advocacy; the development of a directory of potential trainers in children’s rights; the development of a resource package for child rights trainers and advocates and, finally, a series of five training-of-trainers (ToTs) producing a regional cadre of trainer-advocates for children’s rights. There are 10<sup>37</sup> project countries encompassed by the second phase of the project, which will focus on national training in child rights advocacy under those trained in the previous ToTs; intense follow-up to ensure continued use and practice of new skills; and participation in sectoral policy and development meetings in each country. Azerbaijan is currently piloting this phase of the project to provide lessons and best practice for the subsequent nine.

**4.4. Human Rights Defenders**

Drawing on the UN Declaration on *the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms* of 1998, the EU adopted Guidelines on Human Rights Defenders in June 2004. The Guidelines acknowledge the pivotal role of individuals and groups in advancing human rights, including through the documentation of violations, seeking remedies for victims of human rights violations and combating impunity. They commit the EU to monitoring the situation of human rights defenders through regular reporting and contacts with defenders by EU Heads of Mission in third countries, promotion of respect for human rights defenders in

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<sup>37</sup> Project countries Phase II: Azerbaijan, Armenia, Georgia, Belarus, Romania, Ukraine, FYROM, Albania, Uzbekistan, Tajikistan.



multilateral fora and in political and diplomatic relations with third countries, support for relevant UN mechanisms such as the Special Representative on Human Rights Defenders and practical support through development policy, including EU funding.

The 6<sup>th</sup> Annual EU Human Rights Discussion Forum, *‘Implementing the EU Guidelines on Human Rights Defenders: Identifying practical ways forward’*, organized by the Netherlands’ EU Presidency on 9 and 10 December 2004 in The Hague, was dedicated to practical implementation of the Guidelines. At this Forum representatives from the Council Working Group on Human Rights, EU Missions in third countries, European Commission, EU Council Secretariat, European Parliament, the UN Special Representative on Human Rights Defenders, Ms Hina Jilani, representatives of regional mechanisms, NGOs and prominent human rights defenders were represented. The purpose of the Forum was not only to promote the implementation of the Guidelines, but more specifically to identify difficulties that EU Missions encounter while supporting human rights defenders. The Forum resulted in a practical manual for staff of EU Missions in third countries. This manual provides mission staff with practical tools ranging from suggestions for actions in support of human rights defenders and a checklist in the form of a personal action plan, to assistance in making an analysis of the overall situation in which human rights defenders have to operate.

At the 61<sup>st</sup> session of the UN Commission on Human Rights (CHR) EU member states co-sponsored the Norwegian resolution on human rights defenders. In its statement, the EU reaffirmed its support for the Special Representative and her excellent work, but voiced concern at the continuing increase in serious attacks on defenders, and as regards the development of legislation restricting the activities of NGOs. The EU also emphasised that States must ensure that their domestic legislation complies with the UN General Assembly Declaration, must guarantee a favourable environment for the defence of internationally recognised human rights, and must ensure that the judiciary and bodies responsible for applying those laws are trained appropriately. All EU member states also co-sponsored the resolution regarding the UN Declaration tabled by Norway at the 59<sup>th</sup> session of the UN General Assembly.

In order to reinforce support to human rights defenders, greater emphasis will be placed on the European Initiative for Democracy and Human Rights (EIDHR) supporting local, grassroots organisations in third countries. Under the EIDHR programming for 2005-6, over 50 EC Delegations will be charged with implementing microprojects schemes, dispensing more than 30% of the total EIDHR budget. Moreover, support for human rights defenders is expressly identified as a priority under one of the four campaigns which the EIDHR will pursue, entitled “Promoting a culture of human rights”.

The Sakharov Prize for Freedom of Thought, awarded annually by the European Parliament, is an important demonstration of the EU's commitment to human rights defenders. The ceremony in October 2004 to belatedly hand over the prize to Leyla Zana – awarded in 1995 for her fight to defend the rights of Kurdish people but not officially presented due to her imprisonment – was a poignant reminder of the ordeals which many human rights defenders endure. In December 2004, the Sakharov Prize was awarded to the Belarusian Association of Journalists. See chapter 2.4 above for more information on this prize.

#### **4.5. Human Rights of Women**

The EU works to advance the human rights of women in a range of international fora, rooting its position in the need to secure universal ratification and implementation of the Convention on the Elimination of All Forms of Discrimination Against Women, and in the need to avoid undermining existing international commitments in this field, including the Beijing Declaration and Platform for Action.

At the 59<sup>th</sup> session of the UN General Assembly, EU member states co-sponsored resolutions on crimes committed in the name of honour, women in the UN system and trafficking in women and girls. The EU supported, but did not co-sponsor, a resolution on violence against women (introduced by Pakistan) as the resolution incorporated neither a definition of violence against women nor an unequivocal condemnation of all such violence, and omitted language on a range of important issues. A Chair's text on follow-up to the Beijing Declaration and Platform for Action was also adopted without a vote. There was an EU split vote as regards the resolution on the future operations of the International Research and Training Institute for the Advancement of Women (INSTRAW), principally as a result of differences over technical and financial questions. A particular highlight of the 59<sup>th</sup> session was the strong cross-regional support secured for the resolution on crimes committed in the name of honour (introduced by the UK and Turkey) – 78 co-sponsorships – and the inclusion in the resolution of new language calling on States to raise awareness regarding the responsibility of men to promote gender equality.

At the 61<sup>st</sup> session of the UN Commission on Human Rights (CHR) resolutions supported by EU member states included women's equal ownership of land, elimination of violence against women and integrating the

human rights of women throughout the UN system. In its statement on the human rights of women, the EU underlined that a gender perspective must become an integral part of legal systems and legislation, that the achievement of equality calls for recognition of women's sexual and reproductive rights and that the effective implementation of the Beijing Declaration and Platform for Action was vital to the achievement of the Millennium Development Goals.

The 49<sup>th</sup> UN Commission on the Status of Women (CSW) took place between 28 February and 11 March 2005. The CSW focused on a review of the implementation of the Beijing Platform for Action and strategies for the advancement and empowerment of women and girls. It culminated in the adoption by consensus of a Political Declaration<sup>38</sup> which includes a reaffirmation of the Beijing Declaration and Platform for Action and emphasises that their implementation is essential to achieving international development goals. The EU also supported a range of CSW resolutions.

Girls under 18 years of age in developing countries are often subject to abuse of their sexual and reproductive rights (SRH&Rs) as stated in the Cairo Programme for Action. With respect to initiatives in the context of development co-operation, the EC continued to pay attention to these rights, during the period under review, through its policy dialogue at country level and international levels (Beijing + 10 Conference, discussions at the board of the Global Fund to fight HIV/AIDS, tuberculosis and malaria), as well as through its specific strategies on gender equality and the SRH&Rs budget lines, where there is a focus on youth.

The EC also continued to support the UN Population Fund (UNFPA), in the context of the EC commitment to the Cairo principles and Programme of Action, and in response to the undermining effects of the US "Mexico City rule". During 2004, the EC agreed with UNFPA and the ACP to finance an operation of EUR 15 million aimed at improving the availability of basic reproductive health commodities in fragile states. The EC also continued to address extreme situations of abuse of reproductive health and rights, such as Female Genital Mutilation, through targeted support to the World Health Organisation (WHO), through a call for proposals for actions in developing countries and through the EU's DAPHNE programme.

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<sup>38</sup> See <http://www.un.org/womenwatch/daw/csw/csw49/documents.html>

As regards action within the EU, equality between women and men is a Community priority policy, supported by a well established Community *acquis* consisting of thirteen Directives and extensive case law of the European Court of Justice (approximately 200 judgements), as well as various policy instruments and funding programmes, in particular the Community Framework Strategy on Gender Equality 2001 – 2005 which embraces all Community policies and actions.

Legislative developments during the period under review included:

- The Council adopted Directive 2004/113/EC on 13 December 2004 *on implementing the principle of equal treatment between men and women in the access to and supply of goods and services*. Member states have until 21 December 2007 to transpose the Directive in their national legislation. The Directive prohibits direct and indirect discrimination based on sex, sexual harassment and harassment based on sex. Exceptions are permitted for differences of treatment if they are justified by a legitimate aim, and they are appropriate and necessary. The use of sex-based actuarial factors in insurance is banned in principle, but member states may decide not to apply the ban in cases where "sex is a determining factor in the assessment of risk based on relevant and accurate actuarial and statistical data". Nevertheless, all member states must ensure that insurance costs related to pregnancy and maternity (e.g. health insurance) are attributed equally to both men and women. Member states are also required to designate bodies to promote equal treatment for women and men in the field of access to goods and services.
  
- The Commission adopted on 8 March 2005 a *Proposal for a European Institute for Gender Equality (COM (2005) 81)* which will be examined by both the Council and the European Parliament. The Institute should commence work in 2007. It will be funded by the Commission, with a proposed budget of 52.5 million EUR for the period 2007 to 2013. If established the Institute will act as a technical support to the European institutions, in particular the Commission, and the member states, in the promotion of equality between men and women in all areas of Community competence. It will collect, analyse and disseminate objective, reliable and comparable information for all issues relevant to gender equality; develop methodological tools for the integration of gender equality into all Community policies (gender mainstreaming); facilitate the exchange of experience and the

velopment of dialogue at European level and disseminate information to stakeholders and the public at large.

#### ***Gender Mainstreaming in Development Cooperation***

As part of the EC strategy for the implementation of the EC Programme of Action on Gender Mainstreaming in Development Co-operation, a comprehensive capacity-building project for EC staff and their development co-operation counterparts in EU partner countries was started in January 2004, to last until 30 June 2006. The project foresees three main areas of activity: development of tools and resources, training of EC staff and national partners and strengthening of a network of gender correspondents. The project is implemented by the International Training Centre of the ILO, Turin, which has established a Gender Help Desk in Brussels. Principal outputs to date include: the publishing and dissemination of the EC Toolkit on Gender Mainstreaming in Development Co-operation (in English, with French, Spanish and Portuguese versions to be published by end of Summer 2005); 20 gender training courses, including two thematic workshops on Gender and Indigenous Peoples, and on Gender and Private Sector Development; an on-line course on Gender and EC development co-operation; a conference on the human rights of women and 14 workshops for some 25 EC Delegations in Africa, Asia, Eastern Europe and Latin America.

#### **4.6. Human Rights and Terrorism**

The EU attaches great importance to guaranteeing the full and effective protection of human rights and fundamental freedoms, in Europe and in the wider world, in the context of the fight against terrorism.

EU member states co-sponsored the resolutions presented by Mexico on the *Protection of human rights and fundamental freedoms while countering terrorism*, which were adopted without a vote at the 59<sup>th</sup> UNGA and the 61<sup>st</sup> session of the UN Commission on Human Rights. The CHR took stock of reports submitted by the OHCHR and the Independent Expert and decided to appoint for a period of three years a Special Rapporteur (SR) on the promotion and protection of human rights and fundamental freedoms while countering terrorism. The SR is mandated to make concrete recommendations on the promotion and protection of human rights and fundamental freedoms while countering terrorism; to gather, receive request and exchange relevant information; to identify, exchange and promote best practices on measures to counter terrorism that respect

human rights, to work in close coordination with other Special Procedures of the CHR, the Sub-Commission, and other relevant UN bodies, to undertake country visits and to report regularly both to the CHR and to the UNGA.

The EU participated actively in the summit of the Council of Europe that took place on 16-17 May 2005 in Warsaw. The Warsaw Declaration adopted at the event paves the way for reinforced pan-European cooperation and solidarity, including in the fight against terrorism, while respecting human rights. The Warsaw Declaration is complemented by an Action Plan which addresses the issues of “*Strengthening the security of European citizens*” and “*Promoting common fundamental values: human rights, rule of law and democracy*”. The EU fully endorses the objectives introduced in the Action Plan which strongly condemns terrorism and notes the need for a firm and united response from Europe. At the same time, it calls on states to respect human rights and to protect victims while combating this threat. Two relevant new Council of Europe conventions were opened for signature at the Summit: on the *prevention of terrorism*; and on *laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism*.

The issue of human rights and terrorism featured in EU Troika consultations on human rights (see chapter 3.4 for more details).

To date, the European Commission has focused on the priorities defined by the European Council in June 2004 which concern strategic objectives such as the financing of terrorism or the protection of critical infrastructure. Currently, also at the request of the European Council, it has started to address other issues, such as violent radicalisation and the recruitment of terrorists. In its Communication on prevention, preparedness and response to terrorist attacks of 20 October 2004 (COM (2004)698)<sup>39</sup>, the Commission developed three key concepts concerning the balance between fundamental rights and the fight against terrorism:

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<sup>39</sup> <http://europa.eu.int/scadplus/leg/en/lvb/l33219.htm>

- the fight against terrorism must not only be “integrated” in all policies, but also “inclusive”: the preservation of life, security and freedom is a fundamental task requiring the participation of all social actors;
- linked to the previous point is the call for the Union to contribute towards a “civic and democratic debate on securing freedom”. The term “securing freedom” draws on Art 6 of the Charter of Fundamental Rights and underlines the inextricable link between security and freedom;
- the notion that if new effective tools are required to fight global terrorism then “new effective controls are required to maintain the balance between collective security and individual freedom”.

One year after the terrorist attack in Madrid, the EU marked the First European Day for the victims of terrorism on 11 March 2005<sup>40</sup>. The day provides an opportunity not only for remembrance but also for reflection on how effectively to provide security for all citizens of Europe<sup>41</sup>. A memorial report prepared by the Commission noted: “Fighting terrorism is about preserving our most fundamental and cherished human rights but we must uphold those very same principles we are so adamant to defend at every little step of the fight. The fight, therefore, has to be resolute, pervasive and systematic but solidly anchored in a legal framework that assures absolute respect for human rights and fundamental freedoms, including European and international human rights principles.”<sup>42</sup>.

The Commission is working on the prevention of terrorist financing via the non-profit sector. Care is taken to fully respect the principle of freedom of association and to ensure that nothing is done that could undermine the work or reputation of the vast majority of legitimate non-profit organisations operating at national, EU and international levels. The Commission is also finalising a Communication on Violent Radicalisation, which constitutes a contribution to the elaboration of the EU strategy on *violent radicalisation as a factor contributing towards the recruitment of terrorists*. Policy in this area is being developed within a framework of respect for fundamental rights.

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<sup>40</sup> [http://europa.eu.int/comm/justice\\_home/news/information\\_dossiers/terrorism\\_march\\_2005/index\\_en.htm](http://europa.eu.int/comm/justice_home/news/information_dossiers/terrorism_march_2005/index_en.htm)

<sup>41</sup> Sadly, another major terrorist attack took place within the EU’s borders on 7 July 2005, this time on the London public transport system. This atrocity, that killed and maimed dozens of passengers, only served to reinforce the EU’s determination to work together to combat such acts, to ensure that the perpetrators are brought to justice, and to preserve the fundamental values upon which the EU is based.

<sup>42</sup> [http://europa.eu.int/comm/justice\\_home/doc\\_centre/criminal/terrorism/doc/sec\\_2005\\_272\\_en.pdf](http://europa.eu.int/comm/justice_home/doc_centre/criminal/terrorism/doc/sec_2005_272_en.pdf)

#### 4.7. Human Rights and Business

The relationship between business and the protection and promotion of human rights is a developing field in which the EU has taken a strong interest.

Following the adoption by the UN Sub-Commission on Human Rights of draft norms on the human rights responsibilities of transnational corporations (TNCs) and other business enterprises, the UN Commission on Human Rights (CHR) has taken an incremental approach to its examination of the issue. A report by the UN High Commissioner for Human Rights<sup>43</sup> reviewing existing initiatives and standards on corporate social responsibility (CSR) from a human rights perspective, and identifying outstanding issues for consideration, was submitted to the 61<sup>st</sup> CHR in 2005, in line with the mandate from the 60<sup>th</sup> CHR. The CHR subsequently adopted a resolution<sup>44</sup> introduced by the UK, Argentina, Russia, India and Nigeria, and supported by all EU member states, to request the UN Secretary-General to appoint a Special Representative on the issue of human rights and TNCs and other business enterprises, for an initial period of two years. The Special Representative should produce a report with views and recommendations, with the mandate to identify and clarify standards of corporate responsibility and accountability for TNCs and other business enterprises, and elaborate on the role of states in this field<sup>45</sup>. The High Commissioner for Human Rights is also requested to convene annually a meeting with senior executives from companies and experts from a particular sector, such as the pharmaceutical, extractive or chemical industries, to consider the specific human rights issues faced, in order to raise awareness and share best practice.

The European Multi-Stakeholder Forum, set up in October 2002, presented its final report to the Commission in June 2004. The report contains a set of nine recommendations on raising awareness, building capacity and creating an enabling environment, which are addressed to enterprises and their stakeholders, public authorities and EU institutions. It also reaffirms that international and European principles, standards and conventions - including human rights instruments – should serve as a starting point for companies when

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<sup>43</sup> E/CN.4/2005/91

<sup>44</sup> Adopted by recorded vote: 49/3/1

<sup>45</sup> On 28 July 2005, the UN Secretary-General appointed Professor John Ruggie as the Special Representative.



developing their CSR practices. The Forum was a central element of the 2002 Commission strategy to promote CSR and brought together representatives of business, trade union and civil society during 20 months of intense discussions<sup>46</sup>.

Between October 2004 and June 2005, the Commission organised a major awareness-raising campaign on corporate social responsibility, comprising over 60 national events across the 25 EU member states, the three candidate countries (Bulgaria, Romania, Turkey) and Norway. The campaign was targeted specifically at small and medium sized companies (SMEs), but larger businesses, as well as unions, civil society groups and other interested parties also participated in the one-day events. A website in 23 languages was set up to help disseminate an SME-friendly toolkit, consisting of a set of case studies, an awareness-raising questionnaire and a guide to communicating about CSR.<sup>47</sup>

A new two-year project on “Mainstreaming CSR among SMEs” will provide concrete follow-up to the campaign and to the recommendations of the EU Multi-Stakeholder Forum on CSR, particularly as they relate to SMEs. It will be carried out with the help of a group of national experts and support projects through a call for proposals.

How CSR can contribute towards the competitiveness of Europe in a more sustainable world was the key question of the European Conference on Corporate Social Responsibility, which was held under the Dutch EU Presidency in Maastricht on 7-9 November 2004. At the conference different stakeholders from the North and the South discussed a broad range of subjects related to CSR, including human rights issues.

The European Commission has continued to support programmes in connection with the Communication concerning *Corporate Social Responsibility: A business contribution to Sustainable Development* (COM (2002) 347 final). These include initiatives aiming to promote the quality of CSR practices and tools, such as codes of conduct, social labels and audits, social accounting, reporting and assurance, and socially responsible investment, and to improve awareness about CSR, in particular through the exchange of experience and good practice.

#### *EU Generalised System of Preferences*

On 27 June 2005, the EU adopted the new Generalised System of Preferences (GSP) for the period 2006-2015. GSP is the main mechanism through which the EU grants preferential access (reduced tariffs) to the EU market for products from developing countries. In 2002, EU imports under GSP amounted to EUR 53.2 billion out of total imports of EUR 360 billion from developing countries. The new GSP includes a special

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<sup>46</sup> [http://europa.eu.int/comm/enterprise/csr/index\\_forum.htm](http://europa.eu.int/comm/enterprise/csr/index_forum.htm)

<sup>47</sup> [http://europa.eu.int/comm/enterprise/csr/campaign/index\\_en.htm](http://europa.eu.int/comm/enterprise/csr/campaign/index_en.htm)

incentive regime for promoting human rights and good governance, called GSP+. The EU will grant GSP+ preferences to countries it considers 'vulnerable' on the basis of economic criteria, and which have ratified and implemented certain international conventions, including sixteen labour rights and human rights conventions<sup>48</sup>. This regime entered into force on 1 July 2005.

### ***Joint Initiative on Corporate Accountability and Workers' Rights***

The European Commission has provided a grant of €135,000 to the Joint Initiative, a collaborative effort between six organisations - Clean Clothes Campaign, Ethical Trading Initiative, Fair Labour Association, Fair Wear Foundation, Social Accountability International and Workers Rights Consortium - involved in the improvement of labour standards in global supply chains through codes of conduct.

The main goals of the project are to

- to maximise the effectiveness and impact of multi-stakeholder approaches to the implementation and enforcement of codes of conduct, by ensuring that resources are directed as efficiently as possible to improving the lives of workers and their families;
- to explore possibilities for closer co-operation between the organisations and
- to share learning on the manner in which voluntary codes of labour practice contribute to better workplace conditions in global supply chains.

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<sup>48</sup> International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination Against Women, Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child, Convention on the Prevention and Punishment of the Crime of Genocide, Convention concerning Minimum Age for Admission to Employment (N° 138), Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (N° 182), Convention concerning the Abolition of Forced Labour (N° 105), Convention concerning Forced or Compulsory Labour (N° 29), Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value (N° 100), Convention concerning Discrimination in Respect of Employment and Occupation (N° 111), Convention concerning Freedom of Association and Protection of the Right to Organise (N° 87), Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (N°98), International Convention on the Suppression and Punishment of the Crime of Apartheid.

#### **4.8. The ICC and the fight against impunity**

The EU has consistently expressed strong political support for the establishment of the International Criminal Court (ICC), including through an EU Common Position and an EU Action Plan on the ICC.

In line with the EU Common Position, in which the EU committed itself to promoting universal adherence to the Rome Statute, the ICC has been on the agenda of all major Summits and ministerial meetings with third countries, as well as of dedicated human rights consultations. The EU has, throughout the year, carried out démarches in non-State Parties to encourage the ratification of the Rome Statute. EU member states and the Commission co-sponsored a number of awareness-raising initiatives worldwide to promote the ICC. A EUR 4.7 million call for proposals under the European Initiative for Democracy and Human Rights (EIDHR) was published in July 2004 to identify civil society projects aimed at supporting the ICC. The EU also supported, through the EIDHR, the establishment, by the ICC Registrar, of a “Clerkship and Visiting Professionals’ Programme” which aims to allow legal practitioners, particularly from developing countries, to undertake internships in the Court.

The EU and ACP countries agreed in March 2005 to include a joint commitment to the ICC in the new Cotonou Agreement.

The EU also carried out démarches to prevent initiatives that may undermine the integrity of the Statute. On 9 December 2004, the EU publicly condemned the adoption, by the US Congress, of the Nethercutt Amendment strengthening the US sanction regime against countries refusing to conclude bilateral non-surrender agreements.

Further to a request formulated by the Court, the General Affairs and External Relations Council (GAERC) adopted on 25 April 2005 a mandate for the negotiation of an EU-ICC Co-operation Agreement.

The EU development policy sought to underpin the action of the ICC through support to the strengthening of domestic judicial capacity in countries (notably the Democratic Republic of Congo) where the ICC has commenced investigations to ensure that local jurisdictions can deal themselves with the crimes which will not be addressed by the ICC.

The EU supported UN Security Council Resolution 1593 of 31 March 2005, in which the Security Council decided “to refer the situation in Darfur since 1 July 2002 to the Prosecutor of the International Criminal Court”. On 23-24 May the GAERC adopted Council Conclusions on Sudan where it urged all parties in Sudan to co-operate fully with the United Nations and with the ICC in the implementation of UNSCR 1593.

The EU has provided consistent political and financial support to other existing special tribunals, such as the International Criminal Tribunal for the former Yugoslavia, the Special Court for Sierra Leone and the Rwanda Tribunal. It has called for the rapid establishment of the Khmer Rouge Special Chamber in Cambodia.

***EIDHR: The Coalition for the International Criminal Court (CICC)***

Substantial funding has been channelled to the CICC and other organisations (such as “No Peace without Justice” and the “Gustav-Stressemann-Institut”) working for a strong and effective ICC. The CICC is a world-wide movement of NGOs that promotes a fair, effective and independent International Criminal Court (ICC). In 1995, a small group of NGOs decided to work together and co-ordinate their efforts to support the establishment of an International Criminal Court. Since then, the CICC, simultaneously a global network, coalition and campaign, has grown to include more than 2,000 member organisations from 150 countries. Together, the Coalition and its members work at the national and regional level to promote the ICC among governments, civil society, media and parliaments, and build a constructive relationship between the UN and the ICC. It encourages governments to ratify the Rome Statute, to fully implement its provisions into national law and to support the work of the Court through active participation in the Assembly of States Parties and prompt co-operation with the Court. Through their multi-pronged strategy to promote the Statute and preserve its integrity, within 3 years the number of ratifications has risen from 60 to 99, bringing the CICC very close to its long-time goal of 100 States Parties. In this endeavour, the Coalition co-operates with governments, and notably with the European Union and its member states in the universality campaign.

The Coalition also monitors and supports the work of the Court, and continues to be a crucial source of information on the ICC, providing analysis and translations of key documents as well as a wide variety of publicly available print and electronic resources in five languages. It also plays an important role in co-ordinating the increasing collaboration between the Court and the Coalition’s global network of civil society organisations, especially in the countries and regions where the Court has launched investigations. Ensuring justice involves more than investigating crimes and prosecuting the perpetrators, and as the ICC is the first international tribunal where victims are entitled to reparations, the Coalition is especially keen on helping the Court protect the rights of victims.

#### 4.9. Democracy and Elections

For the EU, developing and consolidating democracy is a fundamental objective and a key policy goal of its Common Foreign and Security Policy (CFSP – Article 11(1) TEU) as well as its co-operation policy with third countries (Article 177(2) and 181a(1) TEC).

Democracy is a dynamic process by which citizens are able to get involved in the decision-making process that affects their lives. There is no single model of democracy, but genuine democracies have common features in line with international standards that include: control over government decisions about policy constitutionally vested in elected representatives, who are chosen in regular and fair elections; all adult citizens have the right to vote and to run for public office; people have the right to express themselves on political issues without the risk of punishment, and have the right to seek information from a diversity of sources; people have the right to form independent associations and organisations, including political parties, and to disseminate their opinions; government is autonomous and does not face overriding opposition from groups like un-elected officials or the military or international blocs. Genuine democracy respects minority views.

The EU gives much political support to democracy, including through the political processes involved in its partnership and co-operation agreements, and the work of its institutions, as set out in chapters two and three. In this section we report on the very practical contribution that the EU gives to the mechanics of democracy through support to elections.

##### *Election Support*

A key human right in the context of democratisation is the right to participate in the conduct of public affairs (International Covenant on Civil and Political Rights, Article 25). This right includes the “right to vote and be elected in genuine periodic elections”. The EU contributes to the realisation of this right through election observation and election assistance.

##### *Election Observation and Assessment*

Since the Commission adopted a Communication on Election Assistance and Observation in 2000<sup>49</sup>, which defined a coherent and effective policy for election observation, EU involvement in this field has become increasingly professional and visible<sup>50</sup>.

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<sup>49</sup> COM (2000) 191.

<sup>50</sup> The Communication was endorsed by the Council and European Parliament in 2001.

Since implementation of the Communication began, a total of 34 European Union Election Observation Missions (EU EOM) and two special support missions have been deployed to countries in Africa, the Middle East, Central and South America and Asia<sup>51</sup>. In line with the agreed policy of focussing on key electoral events, and given the financial and human resources available, the Commission aims to observe between eight and ten elections each year.

The purpose of an EU EOM is to:

- first and foremost assess the degree to which an election is conducted in line with international standards for democratic elections;
- deter/reduce electoral fraud and irregularities;
- deter/reduce violence and intimidation;
- enhance the confidence of political contestants, civil society and the electorate to participate in elections;
- provide a snapshot of a whole range of democratisation issues, such as the independence and performance of the judiciary as well as general respect for human rights; and
- produce recommendations to improve the election framework and democratic environment.

Between July 2004 and June 2005, six EU EOMs and two special support missions were deployed using EIDHR funding.

### **Afghanistan**

A Democracy and Election Support Mission (DESM) was deployed to Afghanistan in early August for the presidential election on 9 October. The DESM had a special mandate to carry out an assessment of key aspects of the electoral process as well as make recommendations to improve the electoral and wider democratic processes.

In its report on the elections, the DESM praised the fact that a genuine political choice was available to voters, and that huge logistical difficulties were overcome, against a background of instability, to enable the elections to take place. The report also included a comprehensive series of recommendations to improve the election process, some of which were adopted in advance of the parliamentary elections.

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<sup>51</sup> No EU EOMs have been deployed in Europe or Central Asia as credible election observation is currently undertaken in these regions by the Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) with the support of observers seconded by EU member states, MEP Delegations and, in exceptional circumstances, Commission support through the Rapid Reaction Mechanism and the EIDHR.

## **Burundi**

Legislative elections were observed by an EU EOM which gave a broadly positive appreciation of the election campaign and of election day itself. At the time of going to press the EU EOM remains in country to observe the completion of the electoral process, after which they will issue their final report.

## **Ethiopia**

An EU EOM was deployed to Ethiopia from mid-March to observe national and regional legislative elections on 15 May. It was widely accepted that the presence of the mission had an enormous impact on voter and party confidence in the process, the general transparency of the elections and the resolution of conflicts which emerged during the counting, tabulation and complaints process. The EU EOM continued to follow closely the process to its conclusion, including all aspects of the complaints and appeals process, as well as the Somali region elections fixed for 21<sup>st</sup> August.

## **Guinea Bissau**

The first round of the presidential election, on 19 June was observed by an EU EOM. A second round was scheduled for July 24<sup>th</sup>. The EU EOM will issue a second preliminary statement after the second round and a final report once the process is completed giving a comprehensive assessment of the whole election. The EU EOM has already played a significant role in creating a stable environment in which the elections could be conducted.

## **Iraq**

An Election Support Project was established to support and follow transitional National Assembly, Governorate Council and Kurdistan National Assembly elections in Iraq which were held on 30 January. In addition to assistance that included the secondment of three election experts to the Independent Electoral Commission of Iraq, and an extensive training programme for more than 200 domestic observer groups, a small group of election experts, based in Amman, Jordan, followed the process with a view to making recommendations for the future.

The experts broadly praised the work of the Independent Electoral Commission but made a number of technical proposals designed to improve the effectiveness of the process for the future. The value of the experts' contribution to the Independent Electoral Commission was widely recognised. The training programme for domestic observers helped to ensure a high level of participation from domestic observer

groups and served to improve the professionalism of their efforts. The recommendations made by the electoral experts have been fed into a general review covering lessons learned and best practice.

### **Lebanon**

An EU EOM was deployed in May to observe the four rounds of Lebanon's legislative elections. The EU EOM concluded that elections were well managed in the existing framework, but that the overall election framework is in urgent need of overall reform.

### **Mozambique**

An EU EOM was deployed for the presidential and parliamentary elections on 1-2 December 2004. The EU EOM concluded that the elections respected most international standards for democratic elections but that some aspects, in particular counting and tabulation of results, were not satisfactory and needed to be reformed. This position was shared by other observer groups and the Constitutional Council of Mozambique, in a post-election decision, confirmed the EU EOM's concerns over the process of counting and tabulation. The new government subsequently pledged to reform the election law. The EU continues to discuss these issues in the framework of the political dialogue.

### **West Bank and Gaza**

An EU EOM was deployed to observe the Palestinian presidential elections which were held on 9 January, 2005. The EU EOM concluded that the elections represented "a genuine effort to conduct a regular electoral process" and commended the electoral authorities. The mission nevertheless found that "the occupation and continuing violence as well as restrictions on freedom of movement meant that a truly free election was always difficult to achieve. The presence of the mission was considered by many Palestinian voters as providing greater transparency to the election process. The mission provided detailed recommendations on how to improve the management of the elections and the wider framework including voting in East-Jerusalem.

During the reporting period, the EU also deployed an Exploratory Mission to **Venezuela** for the presidential revocation referendum which was held on 15 August, 2005. This concluded that conditions for the deployment of a credible election observation mission were not in place.



<b>Country</b>	<b>Head of EOM</b>	<b>Total Budget</b>	<b>EOM/DESM Participants</b>
Afghanistan	N/A	EUR 1.636.848	9 Experts in Kabul, and 16 Field Experts in 8 regional locations
Burundi	A. Hutchinson MEP	EUR 1.240.000	78 Observers (8 in the Core team, 12 LTO and 60 STO)
Ethiopia	Ana Gomes MEP	EUR 2.810.000	10 in the Core Team, 52 LTO, and 139 STO
Guinea-Bissau	Johan Van Hecke MEP	EUR 2.500.000 Approximately	8 in the Core Team, 20 LTO and 60 STO
Lebanon	José Ignacio Salafranca MEP	EUR 1.900.000	115 Observers (11 Core Team, 26 LTO and 66 STO)
Mozambique	José Javier Pomes Ruiz MEP	EUR 2.244.312	6 in the Core Team, 20 LTO and 80 STO
West Bank & Gaza	Michel Rocard MEP	EUR 3.000.000	280 Observers

The EU devoted increased efforts to the follow-up of the findings and recommendations of EU EOMs through their inclusion in EU declarations, political dialogue, co-operation programmes, and EIDHR programming. Following the practice established in 2004, all EU EOM Chief Observers returned to the country where they had observed the election in order to present the EOM final report to a wide range of interlocutors.

The EU also continued to support efforts to consolidate a European approach to election observation among EU practitioners, and with EU partner countries. Funding was provided to the Network of Europeans for

Electoral Support (NEEDS) project, implemented by a group of specialist European institutions in the field of elections, to conduct a comprehensive training programme for EU observers and experts, organise regional meetings for domestic election observers, and produce a compendium of international election standards and handbook for domestic observers (both to be published shortly). Over the reporting period, NEEDS carried out five specialised training sessions for over 120 long-term observers and experts, and organised two regional seminars in Amman and in Peru bringing together each time over 20 domestic observer groups from Latin America and the Middle East respectively.

The European Commission organised a major conference on election support in Brussels in September 2004. Attended by more than 200 representatives of organisations and governments active in the electoral field, as well as leading electoral experts and academics, the Conference focused on a number of current concerns, including increasing the impact of election observation and election assistance, election observation in crisis situations and the role of civil society in the election context.

The EU remains committed to promoting the highest standards in electoral observation. As a consequence the European Commission hosted a meeting with all major actors in the observation field designed to take forward the process being developed under the umbrella of the UN to develop international standards for election observation.

#### *Election Assistance*

The EU provides considerable funds for electoral assistance projects in transition countries. This includes support to:

- national election management bodies (EMBs) and election jurisdiction bodies;
- domestic election observation and media monitoring groups;
- voter education by EMBs or civil society; and
- international or regional organisations involved in electoral support.

Assistance to state authorities, including election management bodies, is provided exclusively through geographical co-operation funds available for third states (such as the EDF, ALA, CARDS and TACIS programmes<sup>52</sup>). Support to NGOs involved in electoral assistance can also come from these sources as well as from EIDHR funds.

In addition, in cases where snap elections have been called in post-conflict situations, support to elections has been provided through the Rapid Reaction Mechanism. This has included contributions to the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) Fund for Diversifying Participation in Election Observation Missions to enable observers from Central, Eastern, South Eastern Europe and the former Soviet Union to be deployed to elections in Ukraine and the Kyrgyz Republic.

Examples of on-going election assistance projects supported by the EU between July 2004 and June 2005 include:

- A contribution of more than EUR 30 million was made to the UN Trust Fund to cover the preparation of elections in **Iraq**, as well as EUR 1.5 million to cover the deployment of three EU experts seconded to the Independent Electoral Commission of Iraq as well as a training programme for more than 170 domestic observer groups (see above).
- In recent years the EC has provided EUR 14 million for the preparation of elections in **West Bank and Gaza**, including towards the establishment of an Independent Central Election Commission.
- In **Burundi**, the European Commission provided a start-up contribution of EUR 400.000 to enable the Independent National Election Commission to become operational. This was followed by a EUR 4 million contribution to the UNDP trust fund to support the organisation of the 2005 election cycle.
- In **Guinea-Bissau**, a contribution of EUR 1.2 million was made to the UNDP-managed Trust Fund established to support the conduct of the presidential election.

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<sup>52</sup> **EDF:** European Development Fund, **ALA:** EU, Latin America and Asia cooperation programme for financial and technical cooperation, **CARDS:** Community Assistance for Reconstruction, Development and Stabilisation, **TACIS:** The TACIS Programme provides grant-financed technical assistance to 12 countries of Eastern Europe and Central Asia (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan), and mainly aims at enhancing the transition process in these countries.

#### **4.10. The right to development**

The EU has consistently underlined its commitment to the right to development as set out in the Vienna Declaration and Programme of Action of 1993. That commitment is articulated through the development co-operation partnerships and agreements that have been established with countries throughout the world, for example the Cotonou Agreement between the EU and the African, Caribbean and Pacific countries.

The EU attended the discussions of the newly-established High Level Task Force (HLTF), which met on 13-17 December 2004. The Task Force is composed of five experts on the right to development, plus representatives of the World Bank, IMF, WTO, UNDP and UNICEF. It discussed the implementation of the right to development, in particular obstacles and challenges to the implementation of the Millennium Development Goals in relation to the right to development, and social impact assessments in the areas of trade and development at the national and international levels. The HLTF issued a report<sup>53</sup> for the consideration of states in the Working Group on the Right to Development.

The EU participated actively in the 6<sup>th</sup> session of the open-ended Working Group of the Right to Development (WGRTD), which met in a constructive atmosphere from 14 to 18 February 2005. The WGRTD is mandated by the UN Commission on Human Rights (CHR) to monitor and review progress in the promotion and implementation of the right to development and to review reports and other information submitted by States and international or non-governmental organisations. The Working Group considered the report of the HLTF and adopted conclusions and recommendations based on its findings, including a call to States to strengthen human rights standards in trade and development impact assessments and to increase net transfers to developing countries. It also included a request to the OHCHR to map the Millennium Development Goals against the provisions of relevant human rights instruments.

The EU subsequently voted in favour of the resolution on the right to development adopted by the CHR in April 2005, which endorses the conclusions of the WGRTD. In addition to supporting the proposed OHCHR study in its statement to the CHR on the right to development, the EU also voiced its backing for the efforts of the OHCHR to promote the mainstreaming of the right to development, and all other human rights, into

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<sup>53</sup> Available at <http://www.ohchr.org/english/issues/development/taskforce.htm>

the UN system, including through the 'Action Two' programme, and for the OHCHR's work in supporting the integration of human rights in poverty-reduction strategies. The EU welcomed OHCHR's work on women's rights and emphasised the importance for sustainable development of ensuring that women are respected and integrated into decision-making processes and economic life.

The EU has continued to make the point that it does not consider a legally binding instrument to be a viable option at present for realising the right to development, given that development partnerships concluded at the international level are necessarily voluntary and mutual in nature, and because human rights instruments deal only with a State's obligations to persons within its jurisdiction, not obligations between States. However, the EU favours the exploration of alternative options for advancing the right to development in practice, including by drawing on emerging best practice within the international community on ways to integrate the right to development - and therefore all human rights - into development policies and programmes.

#### **4.11. Asylum, Migration, Refugees and Displaced Persons**

The EU and its member states are concerned to balance a legitimate interest in controlling entry to, and residence in, the territory of the EU with full respect for the human rights of all individuals. Various measures have been introduced – or are under consideration – to ensure that these principles are observed.

Since the entry into force of the Amsterdam Treaty in May 1999, the Commission has presented a set of legislative proposals in the field of asylum and immigration aimed at granting third country nationals rights and obligations comparable to those of EU citizens. By the end of 2004, most of these proposals had been adopted by the Council.

The Commission Communication on *immigration, integration and employment* adopted on 3 June 2003<sup>54</sup>, emphasised how important the fight against discrimination is for the integration of legal immigrants in Europe. The communication called for strong political leadership and clear commitments to promote pluralistic societies and condemn racism. Following the adoption of the Hague Programme<sup>55</sup> by the European Council on 5 November 2004, the Council adopted Common Basic Principles to underlie a coherent European framework on the integration of third-country nationals. These include the practice of

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<sup>54</sup> COM(2003)336 final

<sup>55</sup> The Hague programme is a five-year programme for closer co-operation in justice and home affairs at EU level from 2005 to 2010.

diverse cultures and religions, equal access to institutions and to public and private goods and services for third country nationals, and inter-cultural dialogue.

On 29 April 2004, the Council adopted Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking, or who have been the subject of an action to facilitate illegal immigration, and who co-operate with the competent authorities. This Directive grants certain rights, including legal stay and medical and psychological treatment, to victims of human trafficking. It balances the need to fight against illegal immigration and the need to guarantee respect for the human rights of victims of illegal immigration. The Directive will have to be transposed into national law by all member states by August 2006.

In July 2004 the Commission published a first *Annual Report on Migration and Integration* where certain key issues of integration policy were recognised, including access to the political decision-making process, the fight against discrimination and civic education. In November 2004 the Commission also published the first edition of a *Handbook on Integration* for policy-makers and practitioners which, inter alia, promotes the inclusion of third country nationals in the political process of their country of residence, their access to naturalisation processes, as well as religious and cultural dialogue, which will ultimately lead to better understanding of third country nationals.

During the period under review, the EU has continued to work intensively on the establishment of the Common European Asylum System. The deadline for the transposition into national legislation of Council Directive 2003/9/EC, laying down minimum standards for the reception of asylum seekers, expired in February 2005 and the Commission has been closely monitoring its implementation by the member states.

The Council Directive on minimum standards on procedures in member states for granting and withdrawing refugee status is expected to be formally adopted by the Council in the course of 2005 after the European Parliament gives its opinion. The Directive will ensure that throughout the EU, all procedures at first instance are subject to the same minimum standards, while maintaining consistency with international obligations in this field. The adoption of this Directive will mark the establishment of the first phase of the Common European Asylum System and allow for future proposals to be negotiated under the new institutional framework provided by the Treaty of Nice, which will include Qualified Majority Voting and co-decision of the European Parliament.

The Commission has also started work to achieve the aims of the second phase of the Common European Asylum System, as set out in the Hague Programme, comprising a common asylum procedure and a uniform status for asylum and subsidiary protection. The Commission will take stock of the assessment and monitoring of the implementation of the first phase asylum instruments and build on intensified cooperation between the asylum services of member states, called for by the Hague Programme. The Commission will adopt a Communication on practical co-operation in September 2005.

The Hague Programme has also given new emphasis to the external dimension of asylum, highlighting the need for the EU to contribute to a more accessible, equitable and effective international protection and to provide durable solutions in order to resolve protracted refugee situations. To this effect, the Commission will publish in September 2005, a communication on the first Regional Pilot Protection Programmes, comprising action to enhance protection capacity in countries in regions of origin and transit, so that refugees who require protection are able to access it as quickly as possible and as closely as possible to their needs. A joint resettlement programme, to be implemented on a voluntary basis, will be one of the tools for Regional Protection Programmes.

As the UN High Commission for Refugees (UNHCR)'s third largest donor, the European Commission has continued to support efforts to improve the protection and rights of refugees worldwide. Last year, the Report of the 55<sup>th</sup> Session of UNHCR's Executive Committee included Conclusions on 'International Protection', 'International Cooperation and Burden and Responsibility Sharing in Mass Influx Situations' and 'Legal Safety Issues in the Context of Voluntary Repatriation of Refugees.'

The Third Committee of the 59<sup>th</sup> Session of the United Nations General Assembly also saw resolutions adopted on 'Assistance to Refugees, Returnees, and Displaced Persons in Africa,' and 'The Office of the United Nations High Commissioner for Refugees.' The latter, amongst other things, welcomed the important work of UNHCR, including progress on the Framework for Durable Solutions and the Convention Plus Initiative, both of which have been actively supported by EU member states.

A number of resolutions were also adopted at the 61<sup>st</sup> session of the Commission for Human Rights which dealt explicitly with the human rights of migrants and refugees. A resolution adopted on 'Internally Displaced Persons' was co-sponsored by all EU member states. Eight EU member states co-sponsored a resolution on 'Human Rights and Mass Exoduses,' and a resolution on the 'Human Rights of Migrants,' was also adopted.

#### **4.12. Racism, xenophobia, non-discrimination and respect for diversity**

The EU has made the fight against racism, xenophobia, non-discrimination and respect for diversity a key aspect of its external relations policy. The EU also recognises that, in order to act persuasively in the international context in this field, it must ensure that it is tackling racism and other forms of intolerance effectively within its own borders, and a range of legislative initiatives and programmes have been put in place with this goal.

As regards *EC anti-discrimination legislation*, member states have made further progress during the last year in transposing the two EC anti-discrimination Directives that were adopted in 2000 by the Council of Ministers. These Directives prohibit direct and indirect discrimination, as well as harassment, on grounds of racial or ethnic origin, religion or belief, disability and sexual orientation. The transposition of the Directives has led to the reinforcement of existing national anti-discrimination provisions, as well as the introduction of protection on some grounds for the first time in many member states.

Nevertheless, the Commission has been obliged to launch infringement procedures against some member states for late or incomplete transposition. The Commission is supporting a range of complementary actions to raise awareness and to train judges, lawyers and representatives of civil society in the principles of non-discrimination law.

With respect to *anti-discrimination policy*, the European Commission launched a public consultation on future policy developments in this area, with the publication of a Green Paper on *Non-discrimination and equality in an enlarged EU* in May 2004. Taking into account the comments received, the Commission adopted in June 2005 a Communication setting out a *Framework Strategy for Non-Discrimination and Equal Opportunities for All*. One of the key announcements included in this Communication was a proposal to designate 2007 "European Year of Equal Opportunities for All".

Discussions in the Council on the proposal for a Framework Decision on combating racism and xenophobia continued under the Luxembourg Presidency in 2005, but without conclusion. The proposal was presented by the Commission in November 2001 and is designed to ensure that racism and xenophobia are punishable in all member states by effective, proportionate and dissuasive criminal penalties and to improve judicial co-operation. The draft Framework Decision addresses every form of racism and xenophobia irrespective of its motivation or grounds.



The European Union's Monitoring Centre on Racism and Xenophobia (EUMC),<sup>56</sup> based in Vienna, provides research which is essential to a proper understanding of the extent and development of manifestations of racism, xenophobia and anti-Semitism in the EU. The EUMC conducts its regular data-collection activities through RAXEN, an EU-wide network of national focal points, on the basis of common guidelines for all EU member states. The findings are published in its Annual Report and other publications, such as comparative reports. Within the period under review, the EUMC published four comparative reports: (1) Racist Violence in 15 EU member states, (2) Migrants, Minorities and Legislation, (3) Migrants, Minorities and Education and (4) Eurobarometer Summary Report: Majorities' Attitudes towards Migrants and Minorities.

In addition, the EUMC undertook specific work on Roma and the integration of Muslims at the local level through targeted research. The EUMC organised a Round Table, to follow up the publication of a report on access of Roma women to public health care, with the Council of Europe and the International Roma Women Network. The EUMC and the Committee of the Regions discussed follow-up to the EUMC report on the situation of Islamic communities in five European cities. The initial follow-up - a meeting hosted by the city of Rotterdam, which brought together several cities with large Muslim communities - has drawn attention to the needs of policy makers at the local level and addressed exchanges of good practice.

The EUMC has also been active in the area of racism in sport and co-hosted a reception in support of the Football Against Racism in Europe network (FARE) in June 2004 in Porto at the launch of UEFA's EURO 2004 football competition. The importance of raising awareness and tackling manifestations of racism when they occur on the field or within the stadiums was highlighted.

In the external relations context, the EU is actively engaged in efforts within the United Nations to tackle racism and discrimination. At both the 59<sup>th</sup> UN General Assembly (UNGA) and the 61<sup>st</sup> Commission on Human Rights (CHR), the EU worked for constructive outcomes on resolutions in this field, guided by the need to pursue a consensus in the follow-up to the Durban World Conference Against Racism, Racial Discrimination, Xenophobia and related intolerance of 2001. Whilst all EU member states voted in favour of the UNGA resolution on *Global Efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow up to the Durban Declaration and programme of action* (submitted by Qatar and South Africa on behalf of the G77 group of countries), EU

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<sup>56</sup> <http://eumc.eu.int/eumc/index.php>

member states abstained on the equivalent resolution at CHR on the *World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action* (submitted by Ethiopia on behalf of the African group). This was principally due to the failure of the latter resolution to reflect the EU's position that an emphasis should be placed on effective action at national level to combat racism (including through the ratification and implementation of the UN Convention on the Elimination of Racial Discrimination) rather than on the formulation of complementary international standards. The EU also had difficulty with references to the development of a racial equality index, as the creation of such an instrument would contravene legislation in several EU member states forbidding classifications on the basis of race.

At UNGA, Belgium and Slovenia introduced a resolution on *The International Convention on the Elimination of All Forms of Racial Discrimination*, which was adopted without a vote. At the CHR, the EU also supported resolutions on the *Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance* (submitted by Russia) and on the *Incompatibility between democracy and racism* (submitted by Brazil).

During the CHR, the EU also expressed concern regarding discrimination based on caste and supported the decision to appoint two Special Rapporteurs to prepare a detailed study on discrimination based on work and descent. Moreover, the EU emphasised the unacceptability of any discrimination based on sexual orientation by securing references to this in a number of resolutions: including special mention of the issue in relevant EU statements, and supporting other initiatives where the issue was raised; and by expressing deep concern about human rights abuses perpetrated for this reason.

The EU also contributes to the substantial efforts which are underway in the OSCE to combat discrimination and welcomed the appointment in December 2004 of three Personal Representatives of the OSCE Chairman-in-Office, responsible for intolerance and discrimination against Christians and members of other religions; combating intolerance and discrimination against Muslims; and combating anti-Semitism. The OSCE Conference on *Tolerance, the Fight Against Racism, Xenophobia and Discrimination* was convened in

Brussels on 13 and 14 September 2004 and examined legislative, institutional, intercultural and educational measures which could be undertaken to combat discrimination. The conference culminated in the “Brussels declaration” which set out recommendations to States and to OSCE/ODIHR. On 8 – 9 June 2005, the OSCE Conference on *Anti-Semitism and Other Forms of Intolerance* was held in Cordoba. The conference had a particular focus on the role of the media and education in fighting anti-Semitism and discrimination against Muslims and Christians.

The fight against racism, xenophobia, and discrimination against minorities and indigenous people is a priority for funding under the European Initiative for Democracy and Human Rights (EIDHR). A Call for Proposals for EUR 5 million, to select projects implemented by NGOs, was launched in January 2005. The projects will provide concrete follow-up to the Durban Declaration and Programme of Action of 2001. Activities to combat caste-discrimination are also eligible for support (see box).

***EIDHR: Combating Xenophobia and Discrimination against the Dalits in Nepal***

Whilst 45% of Nepalese are below the poverty line, 90% of Dalits fall into this category. Dalits (who are considered as untouchables or lower caste) are excluded from public resources such as community drinking water systems, temples, cultural events and even shops and hotels used by high-caste people. Adults are denied better employment opportunities while Dalit children are discriminated against in schools. The project, implemented by Oxfam GB with local partners, will run until 2006. It extends legal support and counseling to victims of caste-based violence, is strengthening national NGOs and networks, raising awareness and lobbying of institutions such as the media, government ministries, the police and judiciary about the problems faced by the Dalit community, and monitoring the discriminatory practices of state and civilian institutions. Capacity-building at village level should ensure that the project will serve to reinforce respect for the rights of Dalits at every level of Nepalese society.

#### **4.13. Persons with disabilities**

The EU is fully engaged in the negotiations regarding the draft International Convention on the Promotion and Protection of the Rights and Dignity of Persons with Disabilities. Work continued in the Ad Hoc Committee, which was established by the General Assembly of the United Nations to draft the convention. The fourth and fifth sessions of the Ad Hoc Committee took place in New York from 24 August to 4 September 2004 and from 24 January to 4 February 2005.

The aim of the EU is to agree a Convention that ensures the full and equal enjoyment of all human rights and dignity by persons with disabilities. This Convention should tailor existing human rights to the situations faced by persons with disabilities to ensure the full enjoyment of those rights. It should contain concrete commitments that are capable of being implemented and should attract the greatest possible number of ratifications. The EU has also underlined that existing human rights instruments apply in their entirety to persons with disabilities.

As part of its Communication on the follow-up to the European Year of people with disabilities (COM (2003) 650 of 30<sup>th</sup> October 2003), the Commission is committed to presenting a Disability Report every two years. The report will consider progress in the implementation of the Disability Action Plan<sup>57</sup> and address the subsequent phase of the Plan (2006-7). The first such report will be published in December 2005.

#### **4.14. Persons belonging to minorities**

The EU is committed to respecting fully the human rights of all persons, including those belonging to minorities. The EU Charter on Fundamental Rights calls for the protection of cultural, religious and linguistic diversity while the Treaty on the European Union upholds the principle of full enjoyment of rights and freedoms without discrimination, including association with a national minority, as set out in the European Convention on Human Rights (Article 14). Furthermore, article 13 of the Treaty establishing the European Community allows the Community to take appropriate action to combat discrimination based, among other things, on ethnic origin.

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<sup>57</sup> [http://europa.eu.int/comm/employment\\_social/news/2003/oct/com650\\_final\\_en.html](http://europa.eu.int/comm/employment_social/news/2003/oct/com650_final_en.html)

Despite these provisions, concerns were raised in 2004 about the protection of persons belonging to minorities in the EU. The network of independent experts on fundamental rights, working under assignment from the European Commission, presented an analysis on the protection of minorities in the EU member states and identified a number of initiatives that the institutions of the Union might take, within their competences, to improve that protection.

The European Union's Monitoring Centre on Racism and Xenophobia (EUMC) continued research regarding minorities and migrants. Results showed that these groups are particularly disadvantaged in access to housing, education and employment.

Roma<sup>58</sup> are considered to be one of the largest ethnic minority groups within the EU. Numerous assessments of the situation of Roma in both new and old member states clearly illustrate that members of this community continue to suffer marked discrimination and social exclusion, and encounter difficulties in gaining unhindered and equal access to employment, education, social security, healthcare, housing, public services and justice. The reports of the EUMC National Focal Points confirm marginalisation of Roma in labour markets in nearly all new member states. Also in the field of housing, Roma seem to be the group facing the most discrimination, with surveys showing that they are the group "least wanted" as neighbours by majority populations. Roma are often affected by territorial segregation.

A notable development during the period of the report was the ratification of the Council of Europe Framework Convention on the Protection of National Minorities by the Netherlands on 16 February 2005 and by Latvia on the 26 May 2005.

In 2004, particular attention continued to be paid to persons belonging to minorities within the context of the EU enlargement process, as well as in relation to the Stabilisation and Association process with Western Balkans countries (Albania, Bosnia and Herzegovina, fYROM, Serbia & Montenegro)<sup>59</sup>. The Copenhagen criteria designed in 1993 for countries wishing to join the EU specifically highlight the protection of persons

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<sup>58</sup> For the purposes of this report, the term "Roma" includes persons describing themselves as Roma, Gypsies, Travellers, Manouches, Sinti, as well as other terms.

<sup>59</sup> The European Parliament passed a resolution in September 2004 on harassment of minorities in Vojvodina which called upon the Republic of Serbia to acknowledge these violent acts as criminal acts against persons belonging to minority groups and insisted on immediate and effective action. It sent a fact-finding mission to this region at the end of January 2005 which reported on 2 March 2005 with an evaluation of the situation and recommendations.

belonging to minorities. They state that *'membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and the respect for and protection of minorities'*. Therefore the record of acceding and candidate countries (Bulgaria, Romania, Turkey, Croatia) continued to be assessed in reports presented by the European Commission to the European Parliament and to the Council, with particular attention paid to the Roma communities. Aimed at measuring progress made by candidates towards accession, those reports also contain precise recommendations to the candidate countries with a view to improving their practices. The current and future pre-accession financial instruments provide EU funding to promote non-discrimination and equal opportunities in countries that are preparing for membership of the EU.

The promotion and protection of the rights of persons belonging to ethnic and religious minorities continued to be a key concern in relations with third countries, and was raised, for example, with China and Iran within the framework of the human rights dialogues that the EU conducts with these countries. At the UN Level, the Commission on Human Rights by resolution 2005/79 established a new mechanism on the rights of persons belonging to national, ethnic, religious or linguistic minorities. This resolution was co-sponsored by 12 EU member states. The independent expert appointed by the UN High Commissioner for Human Rights – according to the mandate – should promote the implementation of the Declaration on the rights of persons belonging to national, ethnic or religious minorities, identify best practice and possibilities for technical co-operation.

In 2004, a call for proposals devoted specifically to the fight against racism, xenophobia and promoting the rights of minorities, endowed with EUR 5 million, was launched under the European Initiative for Democracy and Human Rights with a view to supporting civil society projects in numerous third countries.

Finally, the EU continued to be very actively involved in the work of international organisations dealing with minorities issues, such as the OSCE and its Office of the High Commissioner for National Minorities. At UN level, the EU followed with interest the UN Working Group on Minorities.

Overall, protecting the rights of persons belonging to ethnic, religious, cultural and linguistic minorities both within the EU and outside continued to pose a real challenge. The EU is aware, not least due to experience in its member states, that there may be no easy answers or simplistic solutions. Minority women, for example, are often subject to multiple discrimination. Core concerns of national minorities can be identified as participation, language and education. It is also necessary to improve opportunities for persons belonging to minorities to participate in economic life and to ensure their full enjoyment of social rights, including equal access to housing and health care.

***EIDHR: Advancing the rights of the Roma in Serbia and Montenegro***

In three cities of Serbia and Montenegro and 23 Roma settlements, 42 Roma community advocates are being trained to better access and promote their fundamental human rights, as well as their rights under the law on national minorities. The project, which started in August 2003, is implemented by CARE Germany in cooperation with the Lawyers Committee for Human Rights. With the help of an education campaign, a legal fund, a public awareness and media campaign, the promotion of community initiatives and the strengthening of a Roma network, it is expected that by the end of the project:

- the representation and self-organisation among Roma communities will have improved;
- the coordination with local and state authorities, as well as social service providers will be made smoother;
- the administrative and legal obstacles for Roma to obtain their rights and entitlements will be reduced;
- increased understanding and respect for the Roma among mainstream society will be achieved, as well as improved self-esteem among the Roma Community.

***Training the media, empowering minorities: a project for improved media coverage of ethnic and minority issues in the South Caucasus***

Media often provide only superficial and negative images of minority groups. At best, this inhibits mutual understanding and co-operation. At worst, media can contribute directly to violent conflict. To combat stereotyped reporting, the Media Diversity Institute based in London has implemented a 3-year training project targeting the media and minorities in South Caucasus. This EUR 1.7 million project was developed in partnership with the Yerevan Press Club, the Yeni Nesil/Baku press club of Azerbaijan and the Black Sea Press association based in Georgia. Both the journalist community and the minorities themselves received training, and several TV and radio talk shows were produced.

#### 4.15. Indigenous issues

The principles guiding EU engagement towards indigenous peoples<sup>60</sup> are contained in the Council resolution of 30 November 1998<sup>61</sup> which sets the issue in the framework of development co-operation. These principles include the need to integrate concern for indigenous peoples into all levels of development co-operation, including political dialogue with partner countries.

The EU acknowledges the importance that indigenous peoples attach to their self-development, encompassing the shaping of their own social, economic and cultural identity. The EU bases its own action on participation and consultation. The Council Conclusions of 18 November 2002<sup>62</sup> drew on consultations with indigenous peoples and on a report by the Commission assessing the progress achieved since 1998. The Council suggested a number of measures to speed up the implementation of the 1998 principles, including through the mainstreaming of indigenous peoples' issues into EU policy, practices and working methods, the identification of focal points in the Commission, the training of Commission officials at headquarters and in delegations, and the development of a long-term dialogue with indigenous peoples.

The European Initiative for Democracy and Human Rights (EIDHR) funds programmes to promote the rights of indigenous people. In 2005, the first call for proposals dedicated to this issue was launched to select projects to support indigenous peoples' engagement with mechanisms of the UN and other international bodies, and civil society activities for the ratification and implementation of ILO Convention 169. In addition, the threshold for grants was lowered to facilitate access by small organisations. Following extensive publicity, including through presentations in indigenous peoples' fora, there was a massive response to the call and evaluation of proposals will begin in the near future.

In the context of preparatory work on Country and Regional Strategy Papers for 2007-2013, particular attention has been paid to the mainstreaming of indigenous peoples' concerns, including through the

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<sup>60</sup> There is no common position within the EU on the use of the term "indigenous peoples". Some Member States are of the view that indigenous peoples are not to be regarded as having the rights of self-determination for the purpose of Article 1 of the ICCPR and the ICESR, and that use of the term does not imply that indigenous people or peoples are entitled to exercise collective rights.

<sup>61</sup> See [http://europa.eu.int/comm/external\\_relations/human\\_rights/ip/](http://europa.eu.int/comm/external_relations/human_rights/ip/)

<sup>62</sup> See [http://europa.eu.int/comm/external\\_relations/human\\_rights/ip/](http://europa.eu.int/comm/external_relations/human_rights/ip/)



elaboration of simple guidelines for country officers and delegations. The Commission also launched specific training for officials and pursued close co-operation with international organisations, notably the OHCHR, ILO and UNICEF. Commission policy in this field is co-ordinated by an inter-service group, drawing together focal points and other interested colleagues. The group serves increasingly as a forum for indigenous peoples' representatives and NGOs to present their concerns and exchange ideas when visiting Brussels.

The EU continued its involvement in international fora dealing with indigenous issues and co-operation with UN agencies. EU representatives participated in the negotiations on the draft "*Declaration on the rights of indigenous peoples*". The EU supported a CHR resolution extending the mandate of the Working Group on the draft Declaration. In addition to the contribution of EU member states to UN indigenous peoples' programmes, an EIDHR project to support the implementation of the recommendations relating to Mexico and Guatemala, made by the Special Rapporteur on the human rights and fundamental freedoms of the world's indigenous people, has been launched with the OHCHR.

### ***EIDHR: Supporting Indigenous Peoples in Africa***

The recognition of the rights of indigenous peoples in Africa has been supported through an EIDHR grant to the project “*Protecting Indigenous Peoples’ rights through Strengthening Indigenous Peoples’ Capacity for Self-organising and Constructive dialogues with the States and International Governmental Institutions*” by the International Work Group for Indigenous Affairs (IWGIA).

The project facilitated the participation of African indigenous representatives in the meetings of the African Commission on Human and Peoples’ Rights (ACHPR) in order to present testimonies and studies related to their human rights situation. This assisted the ACHPR in establishing a working group on the rights of indigenous populations/communities (WGIP/C). Through the project’s support, the WGIP/C also produced a report on the human rights situation of indigenous people, which has made a decisive contribution towards the recognition of the existence of indigenous populations in Africa and the many forms of human rights violations they suffer. The adoption of this report by the ACHPR is actively being used by indigenous peoples and human rights defenders in discussions and negotiations with African governments and in lobbying effort towards national human rights institutions, UN agencies and donor organisations. It has thereby served to establish the rights of indigenous people as a matter of legitimate concern for the ACHPR and its member governments. For more information see:

African Commission on Human and Peoples’ rights

<http://www.achpr.org>

International Work Group on Indigenous Affairs

<http://www.iwgia.org>

#### **4.16. Trafficking in Human Beings**

The EU has sought to combat the growing problem of trafficking through co-operation in international and regional fora, legislative measures and a range of funding programmes.

The Framework Decision of 19 July 2002 on combating trafficking in human beings obliged EU member states to criminalise human trafficking for the purpose of sexual and labour exploitation before August 2004. The Commission is currently evaluating the implementation of this Framework Decision. The Framework Decision on combating the sexual exploitation of children and child pornography of 22 December 2003 (deadline for implementation: January 2006) defines the crimes concerned, provides for penalties and sanctions, and extends assistance to victims. This includes punishment for those who engage in sexual activities with a child, where, for example, the child was coerced or a payment was given for the child's sexual services, or where a position of trust, authority or influence was abused.

The Commission's Experts Group on trafficking in human beings submitted their report to the Commission on the 22 December 2004. This highlighted human rights as a guiding principle and identified some general themes, including the need for appropriate co-operation and co-ordination mechanisms at both national and European level. The report makes a number of recommendations around prevention, protection of victims and strategies for effective law enforcement. Further to this report, and the Brussels Declaration of 2002, the Commission will issue a Communication on trafficking in human beings in September 2005. The Communication will focus on the situation, needs and rights of trafficked people. It will be based on the recognition that, in order to effectively address human trafficking, an integrated approach is needed, with respect for human rights and the need to take account of the global nature of trafficking as principal concerns. Specific attention will be paid to the situation and needs of children in the light of the Convention on the Rights of the Child.

The engagement of civil society and international organisations in supporting and assisting victims is crucial. Financial programmes such as DAPHNE and AGIS continue to support projects preventing and combating trafficking in human beings and the exploitation of persons, in particular women and children.

International co-operation has been continued at the global and European level, notably pursuant to the UN Trafficking Protocol and during the negotiations regarding the Council of Europe Convention on Action against Trafficking in Human Beings. The EU has also continued to co-operate with the OSCE, especially within the Alliance against Trafficking in Persons, initiated by the OSCE Special Representative on Combating Trafficking in Human Beings. EU member states co-sponsored the resolution on trafficking in women and girls at the 59<sup>th</sup> UN General Assembly.

In the framework of the European Initiative for Democracy and Human Rights for 2005-2006, awareness-raising and advocacy programmes on trafficking in women and children will be eligible for support under its Campaign 2: "Fostering a culture of human rights".

***Tackling trafficking through EU-funded programmes - a regional snapshot***

In the past five years, the Western New Independent States (Ukraine, Moldova, Belarus) have been high on the agenda with regard to the fight against trafficking in human beings. The EC has financed projects for about EUR 10 million to address this issue in the region. The comprehensive approach has encapsulated capacity-building to the state administration in order to allow for efficient prosecution of traffickers, targeting certain groups of the population through specific information campaigns and the provision of direct assistance to victims of trafficking through secure shelters with the appropriate social and medical infrastructure. Regarding Moldova, the EC has renewed its commitment to deal with trafficking in human beings in 2005 through two new projects. Financial support for the functioning of the shelter in Chisinau/Moldova was renewed, given the very positive assessments by all stakeholders involved. The shelter, which is currently run by the International Organisation for Migration (IOM), opened in 2001 and provides for recovery, shelter, rehabilitation and reintegration of victims, who benefit from safe accommodation, medical care, psychological counselling and legal assistance on a voluntary basis. The shelter has a separate wing for minors and mothers with children. The capacity of the shelter at present is for 36 persons (22 in the adults' wing and 14 in the minors' wing).

In addition the EC promotes donor co-ordination and aims at enabling the partner countries to take the lead in setting up appropriate co-ordination and consultation mechanisms. It is clear that the fundamental underlying socio-economic problems in third countries cannot be addressed within a specific anti-trafficking project: however, addressing other underlying issues, such as domestic violence, can prove useful.

#### **4.17. Economic, Social and Cultural Rights**

The European Union attaches the same importance to economic, social and cultural rights as to civil and political rights, bearing in mind the universality, indivisibility, interdependence and inter-relatedness of all human rights and fundamental freedoms, as confirmed by the 1993 World Conference on Human Rights, held in Vienna. Both categories of rights stem from the inherent dignity of the human person and the effective implementation of each right is indispensable for the full implementation of others.

In the period under review, the EU participated actively in the second session of the open-ended CHR-working group (January 2005) mandated to consider options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social, and Cultural Rights and looks forward to continuing the useful debate at the next session.

The EU has supported several CHR mandates dealing with economic, social and cultural rights, namely the Special Rapporteurs on education, housing, health and food, and the Independent Expert on extreme poverty, welcoming the valuable contributions these Special Procedures of CHR make towards the promotion and protection of human rights in the discharge of their respective mandates.

On the right to food the EU has successfully brokered negotiations on the adoption of voluntary guidelines. The guidelines were adopted by the Council of the Food and Agricultural Organisation of the UN (FAO) in November 2004. Negotiations had been initiated by the “World Food Summit: Five Years later” in 2002.

Also the EU’s development co-operation has included activities aiming to strengthen the realisation of economic, social and cultural, as well as civil and political, rights.

#### **4.18. Analysis of effectiveness of EU action on thematic issues**

The breadth of activities on human rights themes which the EU undertakes in international fora, bilateral and regional relations and through funding programmes demonstrates a strong commitment to advancing human rights.

Such action is particularly effective where the EU is perceived as having a strong record of promoting and protecting particular human rights within its own borders. A good example is the fact that all EU member states have abolished the death penalty for all crimes, which permits the EU to speak from a position of authority. Where the EU has acknowledged, and is tackling, human rights problems within its borders – for example as regards racism and other forms of intolerance – it can both raise the issue effectively internationally and share ideas on best practice. Conversely, where the EU's own record has been subject to criticism, whether justified or not, by domestic or international organisations, this may make it harder for the EU to get its message across to third countries.

EU policy may be particularly effective where there is a concerted effort by EU member states to ratify and implement a new human rights instrument, thereby providing a solid basis for the EU to secure wider international support. The EU's political, diplomatic and financial efforts to promote the Rome Statute of the International Criminal Court – which now enjoys 99 ratifications – demonstrate this. Where such an approach is not possible, the EU's policy goals may not be realised as effectively. The EU calls upon States in various multilateral as well as bilateral fora to give early consideration to signing and ratifying the Optional Protocol to the Convention against Torture (OPCAT). However this objective is more difficult to achieve due to the slow progress towards ratification of the instrument by EU member states, which is partly explained by the complex technical and constitutional issues which the instrument raises.

EU policy is also furthered most effectively where EU financial instruments – in particular the European Initiative for Democracy and Human Rights (EIDHR) – are successfully complementing EU policy priorities. As the boxes highlighting EIDHR projects throughout Chapter 4 illustrate, this is often the case. However, the EIDHR cannot support projects relating to all EU human rights priorities. Extensive support is also available for human rights and democracy programmes under mainstream bilateral and regional EU funding. Where the EU wishes to ensure that EU and member state funding programmes complement and reinforce each other, problems may arise due to different programming procedures and priorities. For example, the Plan of Action on children and armed conflict (mentioned in chapter 4.3) is designed to ensure that projects funded by the EU and by individual member states contribute to a wide range of concerns: establishing a comprehensive response has proved difficult.

There are extensive sources of information available on the human rights situation in third countries, including reports by the United Nations, regional bodies and NGOs. The EU also has its own sources of information, including regular reporting by Heads of Mission. A clear challenge to executing an effective policy is to collate accurate information and use it effectively. The EU has taken steps to do this in several priority areas. For example, the EU has ensured that the reporting on important issues such as torture, and children & armed conflict by Heads of Mission follows a clear annual framework.

Effective EU action may also require institutional innovation. One example relates to the human rights of women. An extensive array of legislation and programmes has been put in place within the EU to promote the human rights of women. However, despite this, significant gender gaps remain in most policy areas. The enlarged EU is faced with the challenges of addressing the underlying causes of gender inequality, building support for men in the gender equality debate and supporting the implementation of gender mainstreaming. These challenges have led to the Commission proposal for a European Institute for Gender Equality, which enjoys the support of Equality ministers and the European Parliament (see chapter 4.5 for more details).

## **5. EU Actions in International Fora**

### **5.1. 59<sup>th</sup> Session of the UN General Assembly: Third Committee (general overview)**

The UNGA Third Committee took place from 4 October to 24 November 2004. A total of 72 resolutions were tabled, of which 66 were adopted, 3 were withdrawn and 3 were the subject of no-action motions. Seven decisions were taken.

Of the 66 successful resolutions, 21 were subject to one or more votes, and 45 were adopted by consensus. Three resolutions were withdrawn before adoption: the G-77 withdrew one on the family, Australia sent the resolution on human rights education for adoption in the General Assembly because of the late arrival of the Secretary-General's report, and Belarus withdrew its resolution on the state of human rights in the USA.

Three draft EU country resolutions were the subject of no-action motions, on Zimbabwe, Sudan and Belarus. This was the first time the UNGA had adopted such motions on country resolutions. Despite this, the EU welcomed the success of its other country resolutions, on the Democratic Republic of Congo, Burma/Myanmar and Turkmenistan. On thematic initiatives, the joint EU and some Latin American States resolution on the rights of the child was adopted as usual by a large margin. But disappointingly the resolution was subject to a number of votes on individual paragraphs as well as on the resolution as a whole. The EU's other thematic resolution, on religious intolerance, passed successfully with the support of all Member States present and voting (177:0:0), though UNGA saw for the first time a vote called on this resolution following differences of opinion about naming particular forms of religious intolerance.

The EU's performance at UNGA was effective, thanks in large part to the organising work of the Dutch Presidency. The EU 25 agreed to co-sponsor a number of resolutions even before the text was tabled (e.g. Iran and Belarus), and only split their votes on two resolutions: the Qatar resolution on United Nations International Research and Training Institute for the Advancement of Women (INSTRAW) and the Non-Aligned Movement's resolution on the right to development.

Further detail on thematic issues addressed at UNGA can be found in chapter 4. There is more detail on individual country resolutions in chapter 6.

## **5.2. 61st Session of the UN Commission on Human Rights**

The overall assessment of the 61<sup>st</sup> session of the UN Commission on Human Rights (CHR) is that it was less antagonistic than in recent years due to there being less controversy surrounding the country resolutions that were tabled. The session also took place against the background of the emerging proposals for reform of the UN, including its human rights structures, which would necessarily impact on the future of the Commission itself. The Secretary General's report on the reform of the UN, *In larger Freedom: Towards Development, Security and Human Rights for All*, was published during the session, further focusing attention on the issue.

On 7 April 2005, Kofi Annan, UN Secretary General (UNSG) addressed the Commission in order to present his report. The Commission subsequently held an informal debate on the proposal to replace the CHR with a standing Human Rights Council. The Commission also held an ad hoc session of informal consultations in



June, as a way of ensuring a contribution from the Commission to the debates at the General Assembly. The EU took an active part in the debates and negotiations following the session on the establishment of a Human Rights Council to replace CHR, as proposed by the Secretary General.

Its enlargement from 15 to 25 members made the EU an even more prominent actor at the Commission than in previous years, assisted by the CHR focused Council Conclusions given by the General Affairs and External Relations Council (GAERC) in March 2005. As well as the declarations made by ministers during the High Level Segment of the Commission, the EU Presidency made 13 statements in the general debates on behalf of the Union; and the EU and its member states between them tabled 40% of the resolutions adopted by the Commission. The EU also actively sought the support of other countries for its initiatives and positions.

The EU contributed substantially to the debates of the Commission by participating in the interactive dialogues with the special rapporteurs and independent experts of the Commission. As a matter of principle, the EU never opposes discussion of a human rights issue in the Commission, and regretted the continued use of no action motions to block the raising of some issues.

The EU's statement under item 9, where human rights in specific countries are addressed, included clear references to the countries in which the human rights situation was a source of concern to the EU. Where it considered that action by the Commission was necessary, the EU also put forward a certain number of initiatives. As in previous years, it tabled a resolution on the situation of human rights in Burma/Myanmar, on Belarus (with the USA) and on the DPRK (jointly with Japan for the first time). The EU also co-operated with Colombia and Afghanistan on the Chair's Statements relating to them. The EU actively supported the African Group's initiatives to table decisions on the situation in Chad and Liberia so as to ensure they remained on the agenda of the Commission until the next session.

The EU actively supported a Swiss-led negotiation on the situation of human rights in Nepal, which resulted in a Memorandum of Understanding being signed between the Government of Nepal and OHCHR for the establishment of a monitoring field mission. The EU also followed closely the question of Uzbekistan under the 1503 procedure, and succeeded in having the situation kept on the agenda for review at the next session. The resolution on the human rights situation in Cuba was co-sponsored by the EU. The EU's firm relationship of cooperation with the office of the UNHCHR was furthered with Ms Arbour's visit to the EU Political and Security Committee in May 2005.

On the Occupied Palestinian territories, the EU did not run its traditional resolution on Israeli Settlements owing to a decision by the Arab countries to run their own resolution on this issue. As regards the other traditional Arab initiative on Israeli practices in the occupied Arab territories, the lack of balance in the draft prevented the EU from backing the resolution. However the EU supported the traditional Islamic countries' resolution on the situation in occupied Palestine.

The EU fully supported the African Group's resolution on the Democratic Republic of the Congo (DRC), which reflected its major concerns. The resolution was adopted without a vote.

The situation of human rights in Sudan was a priority for the EU, which worked throughout the session to ensure that the Commission took action on the issue. Having first tabled a resolution with the support of a number of countries, the EU negotiated right up to the end with the African Group to reach a consensus text. The final text established a mandate for a Special Rapporteur and condemned the systematic and generalised violations of human rights and international humanitarian law throughout the country, urged an end to impunity in Darfur and requested full co-operation with the International Criminal Court, in accordance with Security Council resolution 1593.

With regards to thematic issues, the EU presented its traditional resolution on the death penalty. Together with a number of NGOs, the EU actively lobbied both in Geneva and in capitals for an even wider support for the resolution, which was successfully adopted with a record number of 81 co-sponsors.

The EU took the lead in the preparation and negotiation of the resolution on the rights of the child, which was presented once again in conjunction with the Group of Latin American Countries. It was eventually adopted with 51 votes in favour, one abstention and one vote against (USA).

For the second year, the EU also put forward a resolution on the elimination of all forms of intolerance and discrimination based on religion or belief, which was adopted by consensus.

Other thematic resolutions were introduced by EU member states, with strong support from the Union. On the question of enforced or involuntary disappearances, the EU supported France's resolution that the Working Group should complete negotiation of a universal instrument setting new norms to protect all persons from enforced disappearances before the end of 2006. The resolution presented by Denmark on the prohibition of torture was once again a highlight of the work of the Commission. Other important decisions were also taken, such as to establish a Special Rapporteur on the promotion and protection of human rights

while countering terrorism, a Special Representative of the Secretary-General on business and human rights, and an Independent Expert on minority issues<sup>63</sup>. Important non-EU resolutions were adopted on the principles to fight impunity, the right to truth and the prevention of genocide.

The EU regretted the decision for work to continue on drafting a declaration on human rights and human responsibilities, which was narrowly adopted by 26 votes in favour, 25 against and one abstention, though it resolved to seek to overturn this at ECOSOC<sup>64</sup>. It also regretted that despite intensive negotiations, no agreement could be found with the African Group on the issue of implementation and follow up to the Durban Declaration and Programme of action<sup>65</sup>, although it had been possible at the last session of the Third Committee of the General Assembly in November 2004.

The substantial contribution of the European Union and its member states to the work of the CHR reflects the importance that the EU attaches to enhancing the promotion and protection of human rights. Its capacity to act as a unified group on a large range of issues makes the EU a prominent party to all negotiations. This is also rendered possible by early preparation of EU positions, involvement of the relevant Council working parties, consultations with NGOs and especially involvement of the member states who, alongside the Presidency of the Council, were greatly engaged in preparation and lobbying efforts<sup>66</sup>.

Further detail on thematic issues addressed at CHR can be found in chapter 4. There is more detail on individual country resolutions in chapter 6.

### **5.3. Co-operation with the UN, including the UN High Level Panel Report / Secretary General's Report In Larger Freedom**

The EU contributed actively to the ongoing UN reform process. From the beginning, it has strongly supported the work of the High Level Panel on Threats, Challenges and Change.

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<sup>63</sup> The Independent Expert was appointed by the UN High Commissioner for Human Rights on 29 July 2005.

<sup>64</sup> The EU considered it vital that this resolution, which undermines the fundamental principles of the inviolability of human rights, through making their enjoyment dependent on individual action, was overturned at ECOSOC. It did this successfully on 25 July 2005.

<sup>65</sup> Concerning "Racism, Racial Discrimination, Xenophobia and related intolerance"

<sup>66</sup> See GAERC Council Conclusions March 2005.

The EU prepared an informal reaction to the UNSG's report, drawing on contributions from several Council Working Groups. The European Council of 22 and 23 March welcomed the report as a prime contribution to the preparations for the United Nations' summit in September 2005 and reaffirmed that the EU is firmly resolved to play a major role within the United Nations in general and in the preparation for the summit in particular. On 6 April the EU delivered a comprehensive (and very positive) statement, endorsing the main elements of the UNSG's report. The EU welcomed in particular, that the reform proposals presented an historic opportunity for the international community to ensure that human rights take their proper place as one of the three pillars of the United Nations. The European Council, in its 16 and 17 June 2005 Conclusions, also welcomed the prominent place given to human rights, the rule of law and democracy in the reform proposals.

The EU also made detailed statements on the report during the debates in Geneva and New York. The EU has undertaken démarches in capitals around the world on the basis of key messages developing the EU's positions and priorities on the different issues of the report<sup>67</sup>.

#### **5.4. Council of Europe**

The EU and the Council of Europe (CoE) share common values in their support for the promotion and protection of democracy, human rights and the rule of law. The EU particularly supports the CoE Human Rights Commissioner.

The EU has good co-operation with the CoE in a number of joint programmes funded through the European Initiative for Democracy and Human Rights. The joint programme for the North Caucasus has recently ended, and others continue for Georgia, the South Caucasus, Bosnia and Herzegovina, Serbia and Montenegro as well as the Ukraine.

The EU attaches particular importance to Article 1-9 of the treaty on the EU Constitution, signed in Rome on 29 October 2004, that foresees the EU adhering to the European Convention on Human Rights. However, the

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<sup>67</sup> The EU's position in advance of the Summit was confirmed by the General Affairs and External Relations Council on 18 July where it stressed its support for the comprehensive reform process and underlined its priorities which include development aid, the fight against terrorism, and the establishment of a Peacebuilding Commission as well as a Human Rights Council to replace the Commission of Human Rights. The EU repeated its commitment to human rights and their mainstreaming throughout UN activities, stressed the need for the strengthening of the UN human rights system, including the Office of the High Commissioner for Human Rights, and fully endorsed the notion of the responsibility to protect.

Constitutional Treaty cannot come into force until all member states have ratified it. The EU cannot accede to the European Convention on Human Rights until the treaty ratification process is completed or until some other appropriate means is found to allow EU accession to take place.

The EU was delighted with the success of the 3<sup>rd</sup> Summit of Council of Europe Heads of States and Governments held in Warsaw on 16-17 May 2005. It especially welcomed the ambitious plan of action that confirms the primordial role of the CoE in promoting and defending democracy, human rights and the rule of law on the European continent, and will help to ensure that all of its actions contribute to these objectives. This is particularly pertinent to guaranteeing the long-term effectiveness of the European Convention on Human Rights and the European Court of Human Rights by all appropriate means.

The EU welcomed the projects envisaged by the plan of action, in particular the reinforcement of the relationship between the EU and CoE by the development of a memorandum of understanding aimed at reinforcing the co-operation and the political dialogue between the two organisations. In addition, the EU considered the appointment of Jean-Claude Juncker (Prime Minister and Finance Minister of Luxembourg) to produce a report on EU-CoE relations to be another satisfactory result of the Summit.

The European Union is pleased to report that at the Summit three major conventions were opened for signature. The conventions concern terrorism, the trafficking of human beings and money laundering, three evils that continue to afflict humanity.

#### **5.5. The Organisation for Security and Cooperation in Europe (OSCE)**

For the European Union democracy, the rule of law, the promotion and the protection of human rights and of fundamental freedoms are at the very heart of the actions of the OSCE.

During the meetings of the OSCE permanent Council, the EU has spoken out on the following issues (amongst others): political developments in Ukraine, Kyrgyzstan and Uzbekistan; the Moldova/Transdnistria conflict; elections in Kosovo, in Albania and in Tajikistan; the general situation of the human rights in Azerbaijan and in Belarus; the death penalty in the United States of America; and the electoral law in Kazakhstan.

The EU made active contributions to the preparations of the ministerial Council of the OSCE, which was held in Sofia on the 6-7 December 2004. At this meeting, the ministers from OSCE participating states adopted an action plan for the promotion of gender equality, a decision concerning the protection, assistance and special needs of child victims of trafficking, as well as a decision on tolerance and non-discrimination.

Throughout the year, the EU took part in various activities relating to the human dimension of the OSCE. The EU attaches particular importance to the holding of free and fair elections, along with the implementation of existing OSCE commitments and the recommendations given in the election evaluation reports produced by the Office for Democratic Institutions and Human Rights (ODIHR). The EU greatly appreciates the pre-eminent role of ODIHR in the field of electoral observation in the region, and believes that the activities of ODIHR must be preserved and reinforced.

Tolerance, anti-discrimination and the fight against racism are principles which are strongly entrenched within the institutional framework of the European Union. The EU has always been very active in their promotion, whilst always affirming that there is no hierarchy in discrimination and intolerance. The years of 2004 and 2005 were notable in this area for the Berlin conference on anti-Semitism (28-29 April 2004) and the Paris meeting on the crimes of hatred on the Internet (16-17 June 2004).

There were also two other large events during which ministers confronted the question of intolerance and discrimination: the Brussels conference on the fight against racism, xenophobia and discrimination (13-14 September 2004) and the Cordoba conference on anti-Semitism and other forms of intolerance (8-9 June 2005). The EU attaches particular importance to the implementation of the recommendations made in the declarations of Berlin, Paris, Brussels and Cordoba. The EU salutes and supports actively the work of ODIHR, including its intention to improve the collection of data and statistics, and is in favour of good co-operation between the EUMC and the ODIHR. See also chapter 4.12.

The EU has strongly supported the enhancement of OSCE activities combating all aspects of trafficking of human beings, in particular activities implemented by ODIHR and by the Secretariat's Anti-Trafficking Assistance Unit and Strategic Police Matters Unit. The EU renewed its support for the OSCE's work and for the initiatives of Helga Konrad, Special Representative of the OSCE for the fight against the trafficking of human beings.

The EU recognises the important role of the annual Human Dimension Implementation Meeting (HDIM) of the OSCE (Warsaw 4-15 October 2004), the goal of which is to assess, and to ensure follow-up of, all of the activities of the organisation in the human dimension. Specific attention was paid to the following questions:

- The promotion of tolerance
- Freedom of association
- Complimentarity and co-operation of international organisations.

## **5.6. Analysis of effectiveness of EU action in international fora in 2004/2005**

In terms of results, the assessment of the action of the European Union within the Third Committee of the 59th UN General Assembly, and the 61st session of the Commission of the Human Rights, is positive overall. This is partially due to the EU's process of reflection on how to improve its working procedure in relation to its activities in international human rights fora, for example through trying to anticipate likely obstacles in advance; identification of priorities for action; increased contacts with third countries; increased burden sharing with other like-minded countries; and streamlining resolutions between the various fora.

While conscious of the need to continue improving its internal working practices in relation to human rights fora, the EU is also now focussed on actively participating in the process of reform of the United Nations. It is through reforming the mandate and rules of procedure of international human rights fora, to allow them to become more effective, that they will have the greatest impact on improving the ability of the international community to promote and protect human rights.

## **6. Country-Focused Issues**

### **6.1. Europe and its Neighbourhood**

#### **6.1.1. EU Candidates and Potential Candidates**

The prospect of EU membership has acted as a powerful incentive for new member states to undertake political and economic reforms. The impact has been particularly dramatic in the fields of democracy, governance and human rights: the massive strides taken by them in introducing democratic systems, safeguarding minority rights, developing a free media and more are testimony to the powerful pull of the EU.

The prospect of EU integration is now acting as a spur to reform in the accession and candidate states (Bulgaria, Romania, Croatia and Turkey), the Western Balkans and in the wider European neighbourhood.

**Bulgaria** has made significant progress in promoting respect for human rights and fundamental freedoms and engages in continuous improvement of its legislation and practices. It has already ratified all the main human rights conventions and has introduced laws on child protection, discrimination, minority rights and people trafficking. Some concerns remain, e.g. corruption, judicial reform, as well as the treatment of the Roma. Bulgaria has also been identified as a source and transit country for the trafficking of human beings. Progress in these and other areas will be further assessed in the European Commission's report in October.

Since the overthrow of Ceausescu in 1989, **Romania** has made major advances in promoting respect for human rights and fundamental freedoms and in improving its legislation and practices. The EU integration process has been fundamental to this and continues to be a catalyst for change. Some concerns remain e.g. treatment of disadvantaged children and minorities (particularly Roma), press freedom, judicial reform and corruption. Romania has also been identified as a source and transit country for people trafficking. Again, the Commission's report on Romania in October will assess progress.

**Croatia** has made positive progress on human rights in areas such as refugee return, minority rights and judicial reform. There is still work to be done in these areas, which are enshrined in Croatia's EU accession agenda through the Stabilisation and Association process. Croatia's EU accession negotiations will be launched once the Council has established that Croatia is co-operating fully with the International Criminal Tribunal for the former Yugoslavia (ICTY).

The European Council agreed in December 2004 that, following a period of extensive reform, **Turkey** had sufficiently fulfilled the Copenhagen political criteria to start accession negotiations, which should open on 3 October 2005, provided that it had by then brought into force six pieces of outstanding legislation and had signed the Ankara Agreement protocol in accordance with the European Council Conclusions. All six pieces of legislation are now in force, effectively overhauling the Turkish penal system and aligning it more closely with EU models. Turkey has made decisive advances in its far-reaching reform process. Turkey must,



however, continue improving, including by addressing all points of concern identified by the European Commission in order to ensure the irreversibility of the political reform process and its full, effective and comprehensive implementation, notably with regard to fundamental freedoms and to full respect of human rights. The European Union will continue to monitor closely progress of the political reforms.

**Western Balkans:** In October 2004, the Council renewed its Common Position (CP 2004/694/CFSP)<sup>68</sup> aimed at supporting the effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia (ICTY) by an assets freeze on indicted fugitives. The persons concerned are listed in an annex which has been updated on several occasions, to take surrenders or new indictments into account. In March 2005 the Council renewed another Common Position (CP 2005/227/CFSP)<sup>69</sup> with the same aim, placing a travel ban on persons involved in the evasion of justice.<sup>70</sup> The Common Position requires member states to take the necessary measures to prevent the entry or transit of specific persons (listed in the annex to the Common Position) who are engaged in activities helping persons at large to evade justice for crimes for which the ICTY has indicted them, or who are otherwise acting in a manner which could obstruct effective implementation of the ICTY's mandate. The list of persons subject to the travel ban was updated on 28 June 2004, with the addition of further names.<sup>71</sup>

### 6.1.2. The European Neighbourhood Policy

In 2003, the EU launched the **European Neighbourhood Policy** (ENP), a new policy designed to share the EU's stability, security and prosperity with neighbouring countries<sup>72</sup>. This policy takes into account each country's distinct political and economic situation but makes clear that the development of EU relations with the countries concerned would depend on their willingness to respect international commitments and common values on democracy, the rule of law and human rights. So far, the EU has concluded ENP Action Plans with a first series of countries with whom contractual relations were already in force (Israel, Jordan, Moldova, Morocco, the Palestinian Authority, Tunisia and Ukraine). A second group of Action Plans

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<sup>68</sup> OJ L 315, 14.10.2004, p 52.

<sup>69</sup> OJ L 71, 17.3.2005 p, 74.

<sup>70</sup> OJ L 94, 31.3.2004, p. 65.

<sup>71</sup> OJ L 233, 2.7.2004.

<sup>72</sup> Sixteen countries are included in the ENP, they are; Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestinian Authority, Syria, Tunisia, and Ukraine.

(Armenia, Azerbaijan, Egypt, Georgia and Lebanon) is being prepared and should be finalised by the end of 2005, though this will also depend on the will and capacity of those partner countries. In its Conclusions on 25 April 2005<sup>73</sup>, the General Affairs and External Relations Council reaffirmed the importance that the European Union attaches to these countries as neighbours and partners. The Council stressed that it hopes that these countries will maintain close links with the Union, on the basis of common values of democracy, the rule of law, good governance, respect for human rights, including freedom of the media, and common interests, as defined in the framework of the ENP. The Action Plans to be negotiated with these countries will set out a comprehensive set of priorities including areas within the scope of the Partnership and Co-operation and Association Agreements. Among these priorities the EU will pay particular attention to strengthening democratic institutions and respect for human rights and fundamental freedoms. Further information, including wider human rights developments, in a number of ENP countries is set out below.

The EU issued several declarations on developments in **Belarus**. The declaration issued on 14 June 2005 focused on the growing oppression of political opposition forces, civil society, trade unions and independent media in Belarus. Moldova as well as Ukraine aligned themselves with this declaration. High Representative Solana issued several statements on developments in Belarus, especially condemning the sentencing of prominent Belarus opposition leaders Statekvich and Severinets (1 June 2005) and Klimov (13 June 2005). High Representative Solana and US Secretary of State Rice held a joint meeting with Belarusian democratic forces in Vilnius on 21 April 2005. At the 61st session of the Commission on Human Rights, a resolution on Belarus, initiated by the EU, was adopted with the support of the Ukraine for the first time. See also chapter 5.1 for action at UNGA Third Committee.

In line with the Council Conclusions on Belarus of November 2004, the Commission organized an assistance co-ordination workshop in Vilnius to co-ordinate assistance to the process of democratisation and to civil society in Belarus. This workshop was held in March 2005 and EU member states, other donor countries, international organisations as well as NGOs participated. On 24 September 2004, the Council adopted Common Position (2004/661/CFSP) concerning restrictive measures against certain officials of Belarus, who were named by the Pourgourides report as key actors in the disappearances of four well-known persons in Belarus in 1999/2000 and the subsequent obstruction of justice. It was amended on 13 December by a

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<sup>73</sup> (8072/05)

Common Position 2004/848/CFSP to extend the restrictive measures against those Belarusian officials who were responsible for the fraudulent elections and referendum in Belarus on 17 October 2004 and those who were responsible for severe human rights violations in the repression of peaceful demonstrators in the aftermath of the elections and referendum in Belarus.

**Egypt** has made some progress on human rights in 2004, with the establishment of an independent National Council for Human Rights, headed by former UN Secretary General Dr Boutros Boutros Ghali. In April 2005, the Council issued its first annual report, which highlighted a number of key human rights issues in Egypt, among them the continued state of emergency, arbitrary detention, and torture.

The EU encourages political and economic reform in Egypt. Some progress has been made over the past year towards a more broadly based representative government through the constitutional amendment to allow for direct, multiple-candidate presidential elections. However, the EU viewed the arrest of Ayman Nour, leader of an opposition political party, in January 2005 as a setback for the political reform process, and it carried out a démarche on 15 February 2005 on this issue. Mr Nour has since been released although the charges against him have not been cleared yet. The EU intends to hold negotiations with the Egyptian Government on a European Neighbourhood Policy Action Plan during the course of 2005. This will contain political commitments, including on human rights.

Egypt continues to take a progressive stance on the issue of women's rights, particularly on personal status issues. In October 2004 a new family court system was introduced, with the aim of improving women's access to the judicial system, and resolving marital and child custody cases through arbitration rather than the normal court system.

The EU has taken up its concerns with the Israeli and Palestinian authorities at all levels, to respect human rights.

The EU remains gravely concerned about **Israel's** failure to respect the human rights of Palestinians in the Occupied Territories. Like all countries, Israel has the right to self-defence and a duty to protect its citizens against the real threat from terrorist groups. While condemning all acts of terrorism and violence, the EU recognises Israel's legitimate right to protect its citizens from terrorist attacks. However, the Government of Israel must exercise this right within the boundaries of international law and should exert maximum effort to avoid civilian casualties and take no action that could aggravate the situation of the Palestinian people. Similarly, the EU has repeatedly called the Palestinian Authority to make every effort to halt terrorist attacks against Israelis.

The EU has also called upon Israel to ease the closures, freeze all settlement expansion and halt the construction of the barrier inside the occupied Palestinian Territory including in and around East Jerusalem and to ensure that the barrier's route is on or behind the Green Line. The Israeli government was urged to cease its practice of extra judicial killings and house demolitions as well as act with restraint in the face of Palestinian violence. The EU has also raised its concerns about collective punishments, and called on Israel to ensure that any abuses by members of the Israeli Defence Forces, settlers and others are properly investigated and perpetrators are prosecuted.

The EU-Israel Association Council met on 13 December 2004. The Association Council concluded that there was a need for both the Israelis and the Palestinians to continue to engage constructively in a political process and to demonstrate the necessary leadership to revive the Middle East Peace Process. EU Foreign Ministers also welcomed the successful conclusion of the consultations with Israel on the European Neighbourhood Policy (ENP) Action Plan. The ENP provides new opportunities for further deepening and enhancing bilateral relations between the EU and Israel in areas of mutual interest, including human rights.

The **Palestinian Authority** (PA) should take responsibility in reforming the security sector so that real action can be taken against groups and individuals responsible for acts of violence. Such action is needed if the PA is to avoid the accusation of being complicit in sustaining an environment in which human rights are not respected. The EU supports the right of Palestinians to elect democratic representatives at all levels. The PA held Presidential elections on 9 January 2005. Municipal elections took place in the West Bank and Gaza during 2004 and 2005. Legislative elections are due to take place on 25 January 2006. The EU provided practical and financial support for the Palestinian electoral process. The EU is also delivering significant support to the Palestinian civil police and the overall promotion of the rule of law. This work should improve Palestinian capacity to reduce human rights abuses committed by Palestinians. The EU has called upon the PA to abolish the death penalty, following the executions of four Palestinian criminals on 12 June 2005.

The EU along with other Quartet members (United Nations, United States of America and Russia) attended the London Meeting on 1 March promoting the institutions for Palestinian statehood which should underpin Palestinian human rights. The EU, along with the World Bank and international donors, is working to assist the PA implement its programme of reforms.

Following the 3rd Association Council of 11 October 2004, **Jordan** and the EU decided to further strengthen their dialogue on human rights within the framework of the Association Agreement and the European Neighbourhood Policy on the basis of the Jordanian Programme of Political Reform. On 13 December, EU Foreign Ministers endorsed the Jordan European Neighbourhood Policy Action Plan. Within the context of the Association Committee, a formal dialogue on human rights and democracy was carried out with focus on the development of an independent media and an independent and effective judiciary system, the promotion of equality for women and the reform of the political party and elections systems. The EU welcomed the 'Amman Message' in 2004, emphasising that Islam 'provides for human rights and basic liberties'.

**Lebanon** has a relatively sound Constitution, which ensures the right of assembly, freedom of speech and opinion, and gender equality. However, the EU has long held concerns about Syrian influence in Lebanon, which was underpinned by intimidation throughout all facets of Lebanese life, and particularly in advance of the Lebanese presidential elections. In September 2004, the UN adopted Security Council Resolution 1559, one requirement of which was strict respect of the sovereignty, territorial integrity, unity and political independence of Lebanon under the sole and exclusive authority of the government of Lebanon throughout Lebanon. Following the withdrawal of Syrian troops in April 2005, Lebanon held elections for its National Assembly in May and June 2005. The EU sent a 115-strong Election Observation Mission to assess the whole election process including the legal framework, the political environment, campaigning, voting and post-election matters. The Commission is seeking to agree areas for co-operation and reform with the new Lebanese government through the Association agreement and in due course through the European Neighbourhood Policy.

**Libya** has made further progress in reintegrating with the international community. In particular Libya's dismantling of its weapons of mass destruction programmes was a welcome development. However, serious concern remains about the human rights situation in Libya, including restrictions on freedom of expression and assembly, political prisoners, arbitrary detention and conditions in Libyan prisons. The EU is particularly concerned about the case of the Bulgarian and Palestinian medical staff sentenced to death in May 2004. While sympathetic to the needs of the victims of HIV/AIDS in Benghazi and their families, the EU has serious concerns about the conduct of the investigation and treatment of the defendants, including the reported use of torture to extract confessions.

In line with established EU policy promoting the universal abolition of the death penalty, or as a first step a moratorium on executions, the EU considers that the abolition of the death penalty in Libya would be a step towards progress on human rights and would contribute to the advances made so far in strengthening Libya's relations with the international community.

The EU-**Moldova** Action Plan, now in operation, contains a section on human rights and fundamental freedoms. On 6 March 2005, Parliamentary elections were conducted in Moldova. These were judged by ODIHR to have generally complied with most OSCE commitments and other international standards for democratic elections, although they fell short in some areas that are central to a genuinely competitive election process. In the run-up to the elections, the EU issued several statements calling on Moldovan authorities to ensure the proper conduct of the elections. After the elections, on 9 March 2005, the EU issued another declaration. On 7 June, Moldovan President Voronin visited Brussels and met with High Representative Solana and President Barroso. One of the main issues discussed was the settlement of the Transdnistria conflict. On 26 August 2004, the Council adopted a Common Position (2004/622/CFSP) concerning restrictive measures against several high-level Transdnistrian officials involved in the closure of Moldovan language schools by force. This Common Position amends Common Position 2004/179/CFSP, which concerns restrictive measures against the leadership of the Transdnistrian region of the Republic of Moldova. On 21 February 2005, the Council prolonged Common Position 2005/147/CFSP.

During the political crisis in **Ukraine** at the end of 2004 (presidential elections), the EU played a considerable role by using the existing financial and political instruments to promote democracy and respect for human rights in the country. Since the beginning of 2005, with a new Ukrainian government committed to reforms, EU-Ukraine relations were developed in the framework of the ENP EU-Ukraine Action Plan, signed on 21 February 2005. This political agreement established that the Ukrainian commitment to the shared values such as democracy, the rule of law and respect for human rights and fundamental freedoms, and Ukraine's effective implementation of the Joint Action Plan, would step up the pace of EU-Ukraine relations and would be the key element influencing the development of all areas of EU-Ukraine cooperation. Lately, Ukraine and Moldova have both been allowed to align themselves with EU CFSP declarations, démarches and Common Positions on a case-by-case basis.

### 6.1.3. Russia and Central Asia

The EU continues to have concerns about human rights in **Russia**, and in particular about the human rights situation in Chechnya, the situation of human rights defenders, the rule of law and freedom of the media.

Despite some progress in reform of the judicial system, including measures such as raising judges' salaries, implementation of new measures has been slow and has not succeeded in eliminating corruption, nor has respect for the rule of law significantly improved. The law is applied selectively and there continue to be reports of law enforcement agencies acting with impunity.

On media freedom the EU welcomes the fact that despite evidence of self-censorship by journalists, there is a relatively diverse print media in Russia. But while the printed press remains relatively free, there continue to be reports that regional and local authorities often seek to influence local media. State control of the broadcast media restricts national television in broadcasting a plurality of views. During the campaigns for the December 2003 State Duma elections and the March 2004 Presidential elections, the media continued to predominantly operate in a climate of self-censorship. The OSCE Election Observation Mission criticised the state-controlled media for their bias in covering both the parliamentary and the presidential election. President Putin and the pro-Putin party, United Russia, received disproportionate and uncritical coverage during both campaigns. The climate of self-censorship among many Russian journalists has been reinforced by the government's failure to find the killers of 15 journalists who have been murdered, presumably because of their work, since 2000.

There are reports that human rights NGOs are increasingly experiencing difficulties operating in Russia. President Putin's declarations during his 2004 state of the nation speech accusing some NGOs of serving "dubious interests", and criticising foreign and business funding of NGOs, together with some legal initiatives and declarations from top state officials, have been interpreted as signs of increasing pressure on civil society organisations. In May 2005, the Head of the Federal Security Service (FSB) Nikolai Patrushev also claimed that some NGOs were working for foreign interests and against Russia. Some NGOs have experienced direct pressure from the authorities. In January 2005, the FSB raided the office of the Russian-Chechen Friendship Society in Nizhny Novgorod. The NGO, which has traditionally criticised human rights violations in Chechnya, was partly funded at the time by the European Commission.

Russia has made great strides in democratic development over recent years, but the EU has concerns about recent changes to Russia's electoral system. Direct election of regional governors ended in 2004, and they are now nominated by the President and approved by the local legislature. President Putin has concentrated power in his own hands and substantially strengthened his authority vis-à-vis the Duma, the government and the regions. Currently there is little serious political opposition to the government.

There are reports of a growing problem with racism, anti-Semitism, xenophobia and extremism and restrictions on freedom of religion in Russia. Although Article 14 of the Russian Constitution says that Russia is a secular state, Russia's law enshrines Orthodox Christianity as the country's predominant religion and pledges respect only for Buddhism, Islam and Judaism. The law places restrictions on other groups. There have been repeated restrictions to the position and ability to practice of the Catholic Church and smaller minority religions such as the Salvation Army and Jehovah's Witnesses. The latter have been banned in Moscow and have experienced difficulties in other parts of the country as a result. Ethnic minorities, in particular persons from Central Asia and the Caucasus, are frequently victims of ethnic discrimination and sometimes violence. This tendency has recently manifested itself in several highly publicised racist acts, including violent attacks and killings. Such cases in the last few years include the stabbing of a 9-year-old Tajik girl in St Petersburg and of a 24-year-old African student in Voronezh. In January 2005 figures from the Sova Centre, a respected Russian NGO, showed that at least 200 people were injured and 44 were killed in Russia as a result of racially motivated crimes during 2004. The number killed was more than double the corresponding figure from 2003. NGOs have reported that there are around 50,000 members of 'skinhead' groups in Russia and that the number is rising quickly. Russia's Human Rights Ombudsman, Vladimir Lukin, has accused law enforcement agencies of not taking sufficient steps to investigate and prevent extremism-related crimes.

Having agreed at the EU-Russia Summit in The Hague in November 2004 to start a regular human rights dialogue, the first EU-Russia consultations on human rights were held in Luxembourg on 1 March 2005 (see chapter 3.3.3 for more detail). Whilst recognising the genuine security problems that Russia has to deal with, and condemning the terrorist attack in Beslan in September 2004 in the strongest possible terms, the EU remains concerned about the serious human rights situation in Chechnya. There are regular reports of disappearances, of torture and of pro-Moscow armed groups operating with impunity. There are also reports of increasing harassment of NGOs and human rights activists across the North Caucasus. These include the abduction of Makhmut Magomadov, a lawyer working for an EU-funded project, who disappeared in



January 2005 but was later returned. The EU responded to Magomadov's abduction with an EU declaration on Intimidation and Harassment of Human Rights Defenders in Russia, in February 2005. The EU discussed Chechnya in depth with Russia during the March consultations, and encouraged Russia to strengthen co-operation with international human rights mechanisms, and sought assurances on protection of human rights activists. The EU welcomed the appointment of Dmitry Kozak as the President's envoy to the region, and Russia's willingness to discuss human rights issues in Chechnya. With the aim of taking forward co-operation, the EU did not sponsor a country resolution on Chechnya at the 2005 UN Commission on Human Rights (CHR). The EU instead raised its anxieties about Chechnya in the more general EU statement under Item 9. This listed the most serious concerns, including extra-judicial killings and disappearances, and called on Russia immediately to take all necessary measures to stop and prevent serious violations of human rights and international law in Chechnya. In collaboration with the Russian authorities, the EU is currently developing a programme of social and economic assistance for the North Caucasus.

The 15th EU/Russia summit in Moscow on 10 May 2005 adopted road maps for the creation of the four Common Spaces between the EU and Russia, including a Common Space of Freedom, Security and Justice, which notably states: "By strengthening their co-operation through the implementation of international commitments, through respect for the principle of non-discrimination including countering any form of intolerance and racism, through respect of rights of individuals in the EU member states and Russia, including immigrants and persons belonging to minorities, and respect of fundamental rights and freedoms set out in the Convention for the Protection of Human Rights and Fundamental Freedoms and the international Convention on the Elimination of All Forms of Racial Discrimination, the EU and Russia will reach the full potential of their co-operation."

The EU has discussed human rights issues in all Co-operation Committee and Co-operation Council meetings with countries of Central Asia. A special dialogue meeting on human rights with **Turkmenistan** was held in the margins of the Joint EU-Turkmenistan meeting on 12 May 2005, in Ashgabad. See chapter 5.1 for EU action at UNGA Third Committee.

On 23 May, and 13 June<sup>74</sup> the Council adopted Conclusions condemning disproportionate and excessive use of force by the security forces of **Uzbekistan** against civilians during the unrest in Andijan, which took place in May 2005. The Council has repeatedly requested the Uzbek authorities to allow an independent

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<sup>74</sup> And again on 18 July 2005.

international enquiry into these events to take place. In addition, the Council sent a strong message to the **Kyrgyzstan** authorities reminding them to respect their international obligations concerning protection of Uzbek refugees and asylum seekers, who crossed into Kyrgyzstan from Uzbekistan after the events in Andijan. High Representative Solana dispatched his Personal Representative on Human Rights to Kyrgyzstan, following refusal of his visa by the Uzbek authorities.

## **6.2. Africa**

For several years, the EU has been seeking to adopt policies regarding human rights situations in Africa based on co-operation rather than confrontation, for instance through the EU-Africa dialogue which was established under the Cotonou Agreement. Accordingly, the EU has also sought to encourage regional groups such as the African Group at the UN to take charge, in co-operation with other groups such as the EU, of local situations involving human rights violations. However the position taken by the African Group when discussing the human rights situation in some specific African countries during UNGA Third Committee and the CHR has not been very co-operative.

The Common Position on human rights, democratic principles, the rule of law and good governance in Africa<sup>75</sup> is reviewed by the Council every six months. A review of the activities in furtherance of the Common Position was carried out on 22 November 2004. The EU also provided political and financial support for the African Union's (AU) governance agenda, including for electoral observation and the establishment of a Governance Unit at the AU Commission. The EU and AU agreed at the ministerial troika meeting held in April 2005 to work together to strengthen the work of the African Commission on Human and Peoples' Rights in supervising the implementation of the African Charter on Human and Peoples' Rights. On 12 April 2005, the Council adopted a Common Position concerning conflict prevention, management and resolution in Africa<sup>76</sup> repealing the Common Position of the same name adopted on 26 January 2004.<sup>77</sup>

The new text aims mainly to take into account new developments in European Security and Defence Policy (ESDP), concretely, the Action Plan for ESDP support for Peace and Security in Africa, and Conclusions on

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<sup>75</sup> OJ L 158, 2.6.1998, p.1.

<sup>76</sup> OJ L 97, 15.4.2005, p.57.

<sup>77</sup> OJ L 21, 28.1.2004, p. 25.

Peace and Security in Africa, adopted in November 2004. The EU has also provided vital assistance to the AU and to African sub-regional organisations through funding the African Peace Facility. This has made a significant contribution to the AU's ability to deploy peacekeeping troops to Darfur. Peace Facility money is also being used for longer term capacity building programmes in the AU.

In the Third Committee of the 59th session of the UN General Assembly, the EU contributed to the African-drafted country resolution on the human rights situation in the **Democratic Republic of the Congo (DRC)**. The resolution, which was adopted following a vote by member states, condemned the continued high level of human rights abuses, and the persistence of violent attacks on civilians, particularly in the east of the country. It further condemned ongoing sexual violence against women. It called on all parties immediately to cease hostilities and end recruitment of child soldiers, and for the Congolese authorities to take urgent steps towards ending the regional climate of impunity, including co-operation with the International Criminal Court (ICC). The resolution also urged the DRC and its neighbours to do all they could to prevent conditions occurring which might lead to the displacement of civilian populations or refugee flows, and to facilitate the return of refugees to their homes. More positively, it welcomed the gradual extension of state authority throughout the country and steps taken by the transitional government to move the country towards free and fair elections. During the 2005 UN Commission on Human Rights (CHR), the European Union played a key role in encouraging and persuading the African Group itself to present a resolution that recognised and addressed the human rights situation. The resolution was adopted without a vote. It welcomed the beginning of disarmament of former combatants, the strengthening of the mandate of the UN Mission, the activities carried out by the Human Rights Field Office, the report issued by the Special Rapporteur and the joint initiative to combat sexual violence begun by the Government of the DRC, UN agencies and NGOs. It further welcomed undertakings made by regional countries to promote peace and stability. The resolution also recalled the need for the investigation of serious human rights abuses committed in the DRC and noted the start of investigations by the ICC.

The resolution condemned the ongoing breaches of international humanitarian law, particularly in eastern DRC and the impunity enjoyed by those who had perpetrated such crimes. It called upon all parties involved, the transitional authorities and the international community to take the necessary steps to strengthen democratic institutions and prepare the country for elections, and urged the transitional government to remove the death penalty from its statutes. The CHR undertook to look again at the situation in the DRC at its 2006 meeting, focusing on these issues and the recommendations of the UN Secretary General's Special Representative.

On 14 June 2004 the Council adopted Conclusions on EU support for the peace and transition process in the African Great Lakes region and the International Conference for Peace, Security, Democracy and Development in the region. On 31 January 2005 the Council repealed the Common Position concerning the Lusaka cease-fire agreement and the peace process in the DRC<sup>78</sup>.

On 31 January 2005 the Council repealed the Common Position of October 2002, which related to a constructive and critical dialogue with the Government of **Rwanda** on the promotion of national reconciliation, the protection and promotion of human rights and fundamental freedoms and the transition to democracy.<sup>79</sup>

The EU is greatly concerned by the continuing human rights abuses in Darfur, Western **Sudan**. Following the report of the UN-appointed International Commission of Inquiry, which found that all sides were guilty of serious violations that may amount to crimes against humanity and/or war crimes, it was vital that the seriousness of this situation was reflected at the 2005 CHR. The EU worked closely with the African Group to pass a strongly worded resolution on Sudan (see chapter 5.2 for details, and also chapter 5.1 for EU action at UNGA Third Committee). With a view to the implementation of the measures contained in UN Security Council resolution 1591 (2005), the Council adopted on 30 May 2005 a Common Position concerning restrictive measures against Sudan.<sup>80</sup> The Common Position imposes measures to restrict movements and freeze assets of those individuals who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, violate the arms embargo and/or are responsible for offensive military overflights in and over the Darfur region. This Common Position repeals the Common Position concerning the imposition of an embargo on arms, munitions and military equipment on Sudan, adopted on 9 January 2004 and amended on 10 June 2004<sup>81</sup>, by integrating the measures therein with the measures to be imposed, pursuant to UNSCR 1591, in one single legal instrument.

In January 2005, the Council adopted Common Position 2005/82/CFSP<sup>82</sup> repealing Common Position 2002/401/CFSP on **Nigeria**<sup>83</sup>. The policy contents of Common Position 2002/401/CFSP had been restated

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<sup>78</sup> OJ L 29, 2.2.2005, p. 49

<sup>79</sup> OJ L 29, 2.2.2005, p. 49.

<sup>80</sup> OJ L 139 of 2.6.2005, p.25.

<sup>81</sup> OJ L 6 of 10.01.2004 and OJ L 209 of 11.06.2004 .

<sup>82</sup> OJ L 29, 2.2.2005, p. 49

<sup>83</sup> OJ L 139, 29.5.2002, p.1.

and updated in the Council Conclusions on EU relations with Nigeria. The Conclusions had as objective to strengthen relations between the EU and Nigeria in all areas of common interest. These relations shall be based on equality, dialogue and shared values of respect for human rights, democratic principles, the rule of law and good governance, to be achieved through a constructive political dialogue, as well as efficient development cooperation.

During the period covered by this report, the Council adopted Common Position 2004/902/CFSP of 22 December 2004<sup>84</sup> extending, in compliance with Security Council Resolution 1579, Common Position 2004/137/CFSP<sup>85</sup> concerning restrictive measures against **Liberia**. These measures pertained to an arms embargo, travel restrictions on certain individuals and the direct or indirect import into the territory of the European Union of all round logs, timber products and diamonds originating in Liberia.<sup>86</sup> Council Common Position 2004/487/CFSP, concerning restrictive measures against former President Taylor and certain of his close relatives, remains in force.<sup>87</sup>

In relation to **Angola** the Council repealed the Common Position on 31 January 2005<sup>88</sup>. The 2003 Common Position welcomed the substantial political changes that occurred in Angola in 2002 with the completion of the main tasks of the peace process.

The EU tabled a resolution on human rights and democracy in **Zimbabwe** at the UN General Assembly Third Committee in November 2004. This resolution urged the Government of Zimbabwe not to obstruct efforts to assess food security and other humanitarian challenges, and to ensure that food aid and humanitarian aid was delivered in a safe and unhindered manner, without the imposition of any political condition. It also called upon the government to seek assistance from the UN High Commissioner for Human Rights and to consider inviting relevant thematic rapporteurs to assess the situation in the country. The government was also urged to respond to a report of the African Commission on Human and Peoples' Rights. The resolution fell to a "no action" motion, led by the African Group, but the issue still remains on the agenda.

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<sup>84</sup> OJ L 379, 24.12.2004, p. 113

<sup>85</sup> O J L 40, 12.2.2004, p. 35

<sup>86</sup> OJ L 124, 20.5.2003, p. 49.

<sup>87</sup> OJ L 162, 30/04/2004, p. 116.

<sup>88</sup> OJ L 29, 2.2.2005, p. 49.

The situation in Zimbabwe continued to deteriorate, most notably during operation "Restore Order" which resulted in up to 700,000 people made homeless and destitute, with a further 2.4 million indirectly affected<sup>89</sup>. The Presidency of the EU issued a declaration on 7 June condemning the mass forced eviction. As serious violations of human rights (involving inter alia freedom of opinion, of association and of peaceful assembly) continued to occur, on 16 June 2005 the EU amended and extended the Common Position concerning restrictive measures against Zimbabwe.<sup>90</sup> The targeted measures were designed not to harm the ordinary citizens of Zimbabwe or its neighbours; the EU remains committed to providing humanitarian assistance to the people of Zimbabwe<sup>91</sup>.

### 6.3. The Americas

At a meeting of Foreign Ministers of the European Union and the Rio Group, an international organisation of Latin American states, in Luxembourg on 27 May a communiqué was adopted which reiterated their commitment to the promotion and protection of all human rights. The ministers reaffirmed their determination to combat all threats to the full enjoyment of all human rights and to take the necessary measures to promote democratic, participatory, equitable, tolerant and inclusive society. The ministers also welcomed the co-operation between the two groups at the 61st session of the UN Commission on Human Rights.

Although the death penalty has not been imposed for some years in the Caribbean, there is increasing pressure on some islands for it to be carried out. An EU démarche was carried out in **Barbados** in February and **Trinidad and Tobago** in June when it seemed that executions were imminent.

The EU reiterated its concern over the human rights situation in **Colombia** in Conclusions at the General Affairs and External Relations Council of December 2004. These Conclusions called for the prompt implementation of outstanding UN human rights recommendations, the respect for human rights and international humanitarian law by all parties and reiterated the EU's long standing policy of support for the Colombian government in its search for a negotiated solution to the internal armed conflict. These concerns were repeated in the EU statement at the meeting in Cartagena in February 2005 which followed up on the 2003 London Meeting of International Support to Colombia.

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<sup>89</sup> UN Secretary General Special Envoy, Anna Tibaijuka's report of 22 July 2005.

<sup>90</sup> OJ L 50, 20.2.2004, p. 66, OJ L 49, 22.2.2005, p. 10 and OJ L 153, 16.6.2005, p. 37.

<sup>91</sup> On 29 July 2005 the EU adopted a decision updating the list of persons subject to restrictive measures in Zimbabwe to take account of the recent human rights violations.

In its statement at the 61<sup>st</sup> session of the CHR, the EU again called on the Government of Colombia to instigate a comprehensive legal framework for the process of disarmament, demobilisation and reintegration of the illegal armed groups that incorporates the principles of truth, justice and reparation for victims of the armed conflict. The robust statement urged the Colombian Government to continue to maintain a constructive relationship with the Office of the HCHR. The EU noted that, while there had been some improvements, particularly in the trend in a decline of murders, kidnaps and forced displacements, the human rights situation in Colombia remained very grave. The EU was also the originator of the Chair's statement on Colombia which was adopted under Item 3. Throughout the year the EU continued to play an active part in raising specific human rights cases with the Colombian Government, for example the murder of three trade unionists in Arauca province in August 2004, and the massacre of civilians in the San Jose De Apartado peace community in February 2005. The EU has consistently condemned all acts of terrorism and other criminal attacks, including the use of children by the illegal armed groups.

At the 61<sup>st</sup> CHR an item 9 resolution was tabled by the USA on **Cuba**. The text recalled all previous resolutions and invited the Personal Representative of the High Commissioner for Human Rights to produce a report on the human rights situation in Cuba. All EU member states co-sponsored the resolution, which passed 21 – 17, with 15 abstentions. Council Conclusions adopted in January 2005 reiterated the EU's demand for the release of all political prisoners, committed member states to intensified dialogue with the peaceful opposition and obliged them to raise human rights concerns during high level visits. During a further policy review in June 2005, the EU reaffirmed its tough stance on human rights and the EU Common Position on Cuba was maintained at the fifteenth evaluation.

The Council restated the objectives of the EU in its relations with Cuba as: to encourage a peaceful transition to pluralist democracy with respect for human rights and fundamental freedoms, as well as a sustainable economic recovery and an improvement in the living standards of the Cuban people. The Council reiterated that constructive engagement remained the basis of the EU's policy towards Cuba and that human rights issues should be raised by every high-level visitor. The Council repeated its urgent request that the Cuban government release unconditionally all political prisoners.

Following the expulsion from Cuba in May 2005 of several European deputies and journalists who were trying to attend a meeting of the peaceful opposition (the "Asamblea para Promover la Sociedad Civil"), the

EU Presidency protested against this unacceptable behaviour to the Cuban Government. Individual member states, and the EU collectively, have repeatedly raised matters of concern directly with the Cuban government, including arbitrary detention, freedom of expression, freedom of private enterprise, harassment of individuals by the State and lack of international access to Cuban prisons. EU missions in Havana have made progress in developing closer relations with the peaceful opposition and wider Cuban civil society through regular dialogue, which will be further intensified.

The EU has established a continued dialogue with the Government of **Guatemala**, including demarches on a number of priority matters, notably the opening of the local office of the UN High Commissioner for Human Rights (OHCHR), the establishment of the Commission for the Investigation of Illegal Groups and Clandestine Security Organisations, the security of witnesses and human rights defenders, the abolition of the death penalty and the legal framework for adoptions. With respect to project co-operation, the EIDHR has extended support to the Human Rights Ombudsman, the Public Prosecutor and several Human Rights NGOs. Funds have also been set aside to support the office of the OHCHR

Concerned with the ever-increasing regional dimension of the phenomenon of criminal youth-gangs across Central America, the EU reviewed the security situation and policies in the countries most affected by this form of violence, especially **Guatemala, Honduras and El Salvador**. Highlighting the socio-economic causes at the root of this phenomenon and the limited success of purely repressive law and order policies, the reports prepared by the EU Heads of Mission concluded that more emphasis should be put on social integration, prevention and rehabilitation efforts. Likewise, increased co-ordination of EU co-operation was recommended, both at regional and country level, in order to support on-going regional initiatives in this field, and help the countries concerned restrain this phenomenon

The EU has supported the UN Security Council's peacekeeping operation in **Haiti**, MINUSTAH, the mandate of which includes the protection of human rights. The EU supports the Transitional Government of Haiti's efforts to ensure the necessary conditions for free and fair elections in late 2005. Haiti is on the EU Commission's list of priority countries for election monitoring.



#### 6.4. Asia

The EU recognises that further steps have been taken by the Afghan Government to improve the human rights situation across **Afghanistan** and that remarkable progress has been made since the Bonn agreement of 2001. The EU acknowledges the success of the Presidential elections that took place in Afghanistan in October 2004; this bodes well for the parliamentary elections in September 2005. The EU also notes the positive development of the return to Afghanistan of some of the refugees currently resident in neighbouring countries. It was encouraging that 40% of the votes cast in the Presidential elections were from women and that at least 25% of the parliamentary seats will go to women. However, the EU notes with particular concern that, while women's political rights have advanced quickly, discrimination against women is still widespread and the culture is still tainted by domestic violence towards women. This is a widespread issue throughout Afghanistan, particularly in the more rural areas where law enforcement structures are weaker than in the cities. The EU further notes that access to education and justice remains tenuous, particularly for women whose treatment by the law enforcement officials remains arbitrary. Conditions in prisons still need significant improvement. The EU has encouraged the Afghan Government to continue to strive for legal and social reforms targeting these shortcomings.

The EU is concerned about the continuing insecurity and lack of the rule of law in certain parts of the country, as well as the occurrence of serious human rights violations. The EU is also concerned about the imposition of the death penalty. The EU welcomes the Action Plan that resulted from the Transitional Justice conference in The Hague on 6-7 June 2005. The EU supports the Government of Afghanistan in its efforts to bring peace and stabilise the country. See also chapter 5.2 for EU action at CHR.

The EU has expressed concern on a number of occasions during the past year about the increasing political and religious violence in **Bangladesh**, following the attack on an Opposition Awami League rally in August 2004 which killed 20 people, and the assassination of former Finance Minister Mr Kibria in January 2005, also at an Awami League rally. EU Heads of Mission in Dhaka have expressed concern on several occasions during 2005 over the increase of extra-judicial killings, particularly of suspects killed in "crossfire" by the Rapid Action Battalion (RAB) and the police. The death toll from such incidents has amounted to around 350 people in the period of one year. The continued use of the death penalty has also caused deep anxiety. At a donor-organised conference in Washington in February, the USA, Japan and EU member states expressed deep disquiet at the deterioration of governance in Bangladesh, especially law and order, and the rise in political violence and the climate of impunity. The international partners renewed their offer to provide full

support to help the government meet its commitments to improve the situation. The apparent increase in religious intolerance is also troubling, and the EU continues to give support to religious minorities both publicly and privately; including in bilateral meetings with the Bangladeshi authorities, through visits to minority places of worship and in public statements. The appropriation of land belonging to minorities is also a matter of intense concern, and the EU is watching closely developments in domestic legislation that may impact negatively on the advancement of women's rights.

On conclusion of the 2004 Hague Summit, the EU and **India** agreed to pursue a dialogue on democracy and human rights in a mutually respectful and constructive manner. The EU Heads of Mission (EU HOMs) Troika met with the Ministry of External Affairs on 10th December 2004, International Human Rights Day, to take forward the dialogue. The two EU human rights working groups (HRWGs), comprising eight partners (the Commission, Finland, Germany, Italy, Luxembourg, Netherlands, Sweden and the United Kingdom) worked on relations with the Ministry of External Affairs and to assist HOMs in the shaping of the human rights dialogue with the Indian authorities; and on establishing contacts with Indian human rights NGOs and civil society. The HRWGs produced several briefing papers that will serve as the basis for future EU - India human rights dialogue. The Chair of the National Human Rights Commission of India, Dr. Justice A. S. Anand, discussed with EU HOMs the work of the Commission and its relationship with the traditional judiciary system.

The EU lobbied strongly against the execution of Dhananjay Chatterjee on 14 August 2004, which ended what was understood to be a long standing de facto moratorium on the death penalty in India. The Presidency issued a declaration on the death penalty in India on behalf of the EU on 18 August, in which the EU urged the Indian authorities to refrain from carrying out more executions and expressed EU hopes that India would consider abolishing the death penalty and enshrining this abolition in law.

Progress towards reaching a durable settlement of all the outstanding differences between **India and Pakistan**, including Kashmir, has continued to be made through the Composite Dialogue. The EU is encouraged by President Musharraf and Prime Minister Manmohan Singh's joint declaration in April 2005 that the peace process was 'irreversible', and warmly welcomes the improvement in relations between the two countries. However, the EU remains troubled by continuing reports of human rights abuses in Jammu and

Kashmir. In this context, the EU appreciates the public commitment by the Indian leadership to ensure that India's security forces take further steps to improve their approach towards human rights in Kashmir. The EU condemns all acts of violence in Kashmir, and urges the militants to recognise that their actions cannot bring about a resolution to the Kashmir issue. Rather, a durable settlement can only be achieved through dialogue between India and Pakistan, taking into account the wishes of all the peoples of Kashmir.

EU HOMs conduct a regular dialogue on human rights with the Government of **Pakistan**. This dialogue particularly focuses on the misuse of the blasphemy laws, violence against women, minority rights, police behaviour, torture, the death penalty and freedom of expression. The EU recognises the steps taken to address human rights concerns, but continues to underline to the Government of Pakistan the importance of the rule of law as a basic prerequisite for the protection of human rights. Among other developments during the period under review, the National Assembly passed some important amendments to the Criminal Code in November, making "honour killings" murder. Unfortunately the amendments left some important lacunae. Draft legislation on the formation of a National Committee on Human Rights reached the Committee phase at the National Assembly. The EU carried out a demarche on this legislation, asking the Government of Pakistan to amend it to take into account the Paris Principles. In November 2004, Pakistan signed the International Covenant on Economic, Social and Cultural Rights, although it has yet to ratify this.

The deepening conflict in **Nepal** and the negative consequences it has on the human rights situation remain a serious concern to the EU, which has publicly criticised abuses carried out by both the security forces and the Maoists.

The Maoists continue to commit severe human rights abuses, including beatings, killings, bombings, abductions and forced indoctrination (including of children), extortion, intimidation, and the use of child soldiers. The state security forces have also been responsible for widespread grave violations including summary killings, rape, enforced disappearance, arbitrary arrests, illegal and incommunicado detention and torture. The culture of impunity within the Royal Nepalese Army has meant that the authorities have carried out few investigations into the alleged abuses and few perpetrators are convicted. On 1 February 2005 the human rights situation worsened when King Gyanendra dismissed the Prime Minister and multi-party system of government and assumed direct control of the country himself. He imposed a state of emergency under

which politicians, human rights activists and journalists were imprisoned and a number of fundamental rights were suspended. The state of emergency was lifted 29 April and many of those detained have now been released. However, the ensuing climate of fear has meant that many human rights activists and organisations have ceased operating and been forced into hiding. In the absence of effective monitoring there is deep disquiet that the general human rights situation will deteriorate still further.

The EU played an active part in the 61<sup>st</sup> session of the CHR, and supported Swiss efforts to establish an independent UN monitoring presence in Nepal. The EU also supported the Swiss Item 19 resolution that called on Nepal to respect the rule of law, lift censorship and release political detainees, journalists and human rights defenders. Member states of the EU played a significant role in ensuring this resolution achieved consensus support. In the same forum, the EU issued a statement expressing its concern on the situation of children affected by conflict in Nepal and condemning the deterioration of the situation of human rights defenders as well as condemning the human rights abuses committed by all the parties to the conflict.

The EU Troika visited Nepal from 13-15 December 2004. Following their visit the Troika issued a press release expressing their view that the conflict cannot be resolved by military or violent means and strongly criticised the human rights and humanitarian law compliance of both the Maoists and the security forces. The EU also condemned the Maoist bomb attack on a civilian bus in Chitwan on 6 June, in which dozens of people were killed or injured. The European Commission in Kathmandu is engaged in several projects promoting democracy and human rights, with a total budget of around EUR 3 million. In partnership with such organisations as the National Human Rights Commission, Dalit (untouchables) organisations, Nepal Bar Association and NGOs the European Commission is helping to bring human rights awareness to minority groups as well as to highlight human rights issues.

The EU welcomed the agreement signed in April 2005 between the Government of Nepal and the OHCHR to establish a permanent mission in Kathmandu, which it fully supports.

The EU continued to promote the peace process in **Sri Lanka**. In concert with other members of the international community, including through its role as one of the Tokyo Co-Chairs, the EU continued to urge the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) to respect the ceasefire signed in 2002 and to resume direct talks as soon as possible. The EU continues to strongly support Norway in its role as the agreed peace facilitator. The prevention of large-scale conflict in Sri Lanka in recent years has reduced human rights abuses significantly. But there are still real problems including political assassination, intimidation, and underage recruitment by the LTTE and other armed groups. The local EU Troika delivered strong messages on these issues to the head of the LTTE's political wing in August 2004. EU missions in Colombo have also expressed concerns about apparent extra-judicial killings carried out by the police. During the LTTE's European visit in March 2005, member states raised the problem of continued child recruitment and urged the LTTE to return these children to their families. Following the tsunami on 26 December the Commission and member states encouraged both sides to come to an agreement on a post-tsunami recovery joint mechanism which is transparent, conflict sensitive and which respects the rights of local communities. External Affairs Commissioner Ferrero-Waldner visited Sri Lanka in March 2005 to further this objective.

In June 2004, President Gayoom, of the **Maldives**, announced wide-ranging political reforms. But pro-reform demonstrations in August ended in violence, the declaration of a state of emergency and the arrest of 200 people. An EU fact-finding mission (from Colombo where the closest accredited EU missions are based) later that month met detainees and Maldivian officials. On 6 September, the local EU Presidency and European Commission representative met the Foreign Minister and called for the detainees to be permitted to exercise their fundamental rights and to be treated with due process. They also expressed the hope that the reform process would continue. The European Parliament passed a resolution calling for a travel and aid ban on the Maldives. The state of emergency was lifted on 10 October and many detainees were released (although some were not released until the New Year). During this time, EU member states continued to raise concerns in bilateral meetings and the EU also impressed upon the government the need for free and fair elections in January 2005. These saw a significant number of pro-reform candidates elected, but progress on political reform remains slow. In a recent positive step political parties have been allowed to register and several have done so.

The EU tabled the resolution at the UN CHR which expressed continuing grave concern at the ongoing systematic violation of human rights in **Burma/Myanmar**. See also chapter 5.1 for EU action at UNGA Third Committee. The EU has appealed to the Burma/Myanmar authorities, for example in its statement of 16 February 2005, to establish a permanent and sincere co-operation with the Special Envoy of the Secretary General and with all relevant UN agencies. However the UNSG's Special Representative and the UN Special Rapporteur continue to be denied access to Burma/Myanmar<sup>92</sup>. UN agencies are operating under increasing pressure from the regime. The International Labour Organisation concluded in June 2005 that the Burma/Myanmar authorities had failed to take action against forced labour there.

Daw Aung San Suu Kyi and the National League for Democracy Vice Chairman U Tin Oo remain under house arrest and the leaders of other political parties and ethnic minorities are detained. The EU has repeatedly called on the Burma/Myanmar authorities to release Daw Aung San Suu Kyi and all other political prisoners. It expressed concern following the arrest on 9 February 2005 of Khun Htun Oo, leader of the Shan Nationalities League for Democracy, together with other Shan community leaders; the EU has called on all restrictions on them to be immediately removed. The EU strengthened its Common Position in October 2004 in the light of the political situation in Burma/Myanmar and it was renewed in April 2005 for another 12 months. The EU raised its concerns about the human rights situation with the Burma/Myanmar Foreign Minister at a meeting in Japan on 6 May 2005 and it also handed over a list of political prisoners whose release was requested on urgent humanitarian grounds. On 25 April 2005, the Council recalled its Position on the political situation in Burma/Myanmar, and decided to maintain the restrictive measures imposed in 2004 against the military regime, those who benefit most from its misrule and those who actively frustrate the process of national reconciliation, respect for human rights and democracy.<sup>93</sup>

The EU acknowledged the progress made by **Cambodia** towards respect for human rights, and democracy under the rule of law. It welcomed the formation of the new Government on 15 July 2004 after an impasse following the general election in July 2003. It also welcomed Cambodia's agreement, at the Consultative Group on Cambodia in December 2004, to improve good governance through the setting of benchmarks and

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<sup>92</sup> The Director of the World Food Programme was able to visit the country in August 2005.

<sup>93</sup> OJ L 108, 29.4.2005 , p. 88.

regular review and actions, such as the passing of a draft anti-corruption law. It encouraged Cambodia to institute further genuine democratic reforms to help entrench human rights and to overcome continuing serious deficiencies such as weak law enforcement, corruption, land grabbing and the persistence of a climate of violence in some areas.

The EU remained concerned over violence against political and civic activists, in particular the killings of 5 land protestors in the town of Poipet on 21 March, and appealed to Cambodia to do its utmost to bring those responsible to justice. It expressed concern in February 2005 over the lifting of parliamentary immunity of opposition party members of the National Assembly; emphasising the importance of respect for the rights of the democratic opposition and urging all political parties to work together in a spirit of responsibility. It remained of the view that the problem of impunity and the lack of a functioning legal and judicial order remained a central obstacle to the process of building democratic institutions and advancing the enjoyment of human rights under the rule of law in Cambodia. The EU fully supported a resolution at the 61st session of the CHR regarding the provision of technical co-operation and advisory services in Cambodia.

The EU welcomed progress on the issue of Montagnards, ethnic-minority asylum seekers who have travelled to Cambodia from Vietnam's Central Highlands. The EU welcomed the signature of a Memorandum of Understanding on the issue by the Cambodian and Vietnamese Governments and the UN High Commissioner for Refugees (UNHCR) on 25 January 2005. It called upon the Government of Cambodia, as a party to the 1951 Convention on Refugees and its related 1967 Protocol, to comply with its international obligations, in particular the core principle of non-refoulement, and to co-operate fully with the UNHCR. The EU welcomed the ratification of legislation needed to establish a Khmer Rouge Tribunal and expressed the hope that an independent, UN-supported Tribunal will help to strengthen accountability, the rule of law and judicial reform in Cambodia.

The EU continues to have serious concerns about human rights in **China**. There has been little or no progress in a number of areas of concern during the period under review. These include freedom of expression; freedom of religion; and freedom of assembly. Journalists, lawyers and members of NGOs continue to be harassed. The death penalty continues to be used extensively; there is widespread administrative detention; and the EU has serious concerns about the use of torture.

The situation in Tibet and Xinjiang remain of concern. Persistent repression in these areas leads to large numbers of prisoners of conscience and only very little response from the Chinese side to the EU's list of cases of concern.

However, there have also been some encouraging developments. The EU noted the growing willingness of China to discuss human rights issues, and the inclusion in March 2004 of a clause on the respect for human rights in China's constitution. Policy measures have recently been passed or announced to improve the position of the individual in court, to counter ill treatment and torture and to reform systems of administrative detention. At the same time, there is still a lack of effective implementation of such measures. China continues its work towards ratification of the International Covenant on Civil and Political Rights (ICCPR) but progress remains slow.

The EU and China have conducted a human rights dialogue for almost ten years. In the period covered by this report, two dialogue rounds and two human rights seminars took place. The EU also made an evaluation of the dialogue in October 2004. Further details can be found in chapter 3.3.1.

EU HOMs, as well as the EU Directors Troikas visiting the DPRK, have been told that the **Democratic Peoples Republic of Korea** will not discuss the human rights situation in the DPRK while the EU continues to table resolutions at the CHR. However, EU Director Troika meetings with the DPRK have continuously raised human rights issues since 1998 (when the first one was held in Brussels), including during the last visit in November 2004. The EU has sponsored three CHR resolutions about the DPRK. The latest CHR resolution (co-sponsored with Japan) condemning human rights abuses in the DPRK, was passed on 14 April. Included in that resolution is the extension of the mandate of the UN Special Rapporteur, which was derived from the 2004 resolution. However, despite many efforts by EU interlocutors to persuade the DPRK authorities to allow him into the country, the DPRK regime will not do so.

Significant numbers of DPRK nationals continue to cross the border into China. China continues to take the view that the border-crossers are economic migrants and does not fully implement the provisions of the 1951 UN Convention on Refugees which would allow the UN High Commissioner on Refugees access to the border-crossers to assess their status. The EU raised the issue at the EU-China human rights dialogue in February 2005.



**Laos** continues to be a one-party state with restrictions on a number of civil and political rights. Prison conditions in particular remain a matter of serious concern. The EU is however encouraged by two recent developments. One concerns the circumstances surrounding the voluntary resettlement of members of the Hmong ethnic minority. In the hope that these events will lead to the peaceful solution of a long-standing political and humanitarian problem, the EU stands ready to consider requests for humanitarian assistance by the Lao authorities. The other is the release of two prominent political prisoners. Given the very limited number of detainees with a political background, the EU looks forward to further positive steps by the Lao government.

In **Thailand**, the level of violence in the far south increased. The EU has remained in close contact with the Thai government over developments, and has expressed its concern over the loss of life. The local Dutch EU Presidency visited the area in May 2005. More than 800 civilians and members of the security forces have been killed since January 2004. On 25 October 2004, 85 demonstrators died in Tak Bai, most from suffocation after being loaded onto trucks by members of the security forces. The official Thai report into the incident found that the security forces used inappropriate methods to disperse the crowd. Various disappearances have not yet been solved, including the case of the human rights advocate Somchai Neelapachit. Since the general election on 6 February 2005, the Thai Prime Minister Thaksin Shinawatra has vowed to adopt a softer approach to southern Thailand. He has created a National Reconciliation Commission, to advise the Government's southern policy, chaired by the former Prime Minister Anand Panyarachun; EU HOMs met Anand in May 2005, as part of their continued close monitoring of developments.

Within the framework of its one party political system, there have been positive trends in **Vietnam's** adherence to its international obligations with regard to civil and political rights. Under the Lunar Year and Victory Day amnesties, the Vietnamese government has released nine prisoners on the EU list of Prisoners/Detainees of Concern. The EU continues to monitor the remaining cases. Moreover, in December 2004 Vietnamese authorities granted the EU Presidency permission to visit Tchich Huyen Quang, who figures on the list. Concerns regarding certain restrictions of civil and political rights remain, in particular regarding freedom of expression, religion, assembly, association and access to justice, and the country's high rate of executions. These anxieties continue to be raised in the biannual meetings of the EU-Vietnam human rights dialogue.

The first ever EU-Vietnam Seminar on the Death Penalty took place in Hanoi on 24-26 November 2004. Although abolition remains a distant prospect, some Vietnamese ministers have spoken publicly about restricting its use. As mentioned in the Cambodia section, the EU continues to monitor the situation of the Montagnard community originally from the Central Highlands of Vietnam, some of whom are now asylum seekers in Cambodia. From 16-19 January 2005, the local EU Troika and the Head of Development Office carried out a mission to the Central Highlands provinces of Gia Lai and Kon Tum. They investigated the situation of the ethnic minorities and possible avenues for EU developmental support.

The EU welcomed the re-establishment of the Legislative Council in **Brunei** in September 2004. The EU looks forward to further steps by Brunei towards democratisation, such as direct elections to the Legislative Council and the abolition of the 1962 State of Emergency.

In **Indonesia**, the EU welcomed the fact that all three elections in 2004 (one parliamentary, and two rounds of a presidential election) were considered free and fair. In September 2004 Susilo Bambang Yudhoyono was elected President in the first direct Presidential election in Indonesia.

In Aceh, the state of Civil Emergency ceased in May 2005, and it returned to Civilian Order. Since the 26 December 2004 earthquake and tsunami, many parts of Aceh have opened up to foreign NGOs and diplomats, including the coastal roads.

The Government of Indonesia and the Free Aceh Movement (GAM) have had four successful rounds of peace talks in Helsinki in January, February, April and May 2005. The EU has supported these talks. At the end of June, an EU fact-finding mission visited Jakarta and Aceh at the invitation of the Indonesian government, with a view to potential EU support for monitoring any peace agreement reached.<sup>94</sup>

The EU remains concerned about continuing human rights violations in conflict areas, in particular in West Papua. It also remains concerned about the weakness of the judiciary and Indonesia's failure up to now to bring perpetrators of serious human rights violations to justice.

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<sup>94</sup> On 15 August, the Government of Indonesia and GAM signed a peace agreement, committing them to a peaceful, comprehensive and sustainable solution to the conflict in Aceh with dignity for all, and fair and democratic government of Aceh within the unitary state of the Republic of Indonesia. The EU welcomed the signature of the agreement. The EU and 5 ASEAN countries are contributing to the Aceh Monitoring Mission (AMM) which will support the government of Indonesia and GAM in their implementation of the terms of the peace agreement. The AMM will deploy formally on 15 September: an initial presence has been on the ground since the signing of the peace agreement.

The EU assessed that, overall, the situation of human rights in **Malaysia** had improved. It welcomed the Report of the Special Commission to Enhance the Operation and Management of the Royal Malaysia Police, and hoped that the Malaysian Government would act on its recommendations rapidly and effectively. It also welcomed the release of Dato' Seri Anwar Ibrahim, aspects of whose trials had given cause for concern. It continued to have concerns, however, about some human rights issues, including the Internal Security Act, aspects of which are not compatible with international human rights standards and norms. It also remained concerned about Malaysian anti-terror legislation which amends the penal code and which lacks clear definitions and a consistent terminology, and could therefore lead to arbitrary and conflicting interpretations. Aspects of the Malaysian Government's recent efforts to curb large-scale illegal immigration also gave rise to potential human rights concerns. The EU monitored the situation and supported the efforts of the United Nations High Commission for Refugees (UNHCR) to minimise the impact of Malaysia's immigration policies on vulnerable groups. Following assurances from the Malaysian Government, the EU and UNHCR agreed to delay making further representations to see if these assurances would be honoured.

Despite steady progress in the field of human rights in the **Philippines** over the past few years, the EU remains concerned about the killings of journalists. Over the period covered by this report, 15 journalists were killed, mainly for denouncing local corruption and crime. Not a single perpetrator has been brought to justice so far. According to the International Federation of Journalists, the Philippines is the second worst country in the world, after Iraq, for journalist killings. The EU shared international concerns over numerous attacks, allegedly perpetrated by both state and non-state actors, on activists of leftist opposition parties, human rights defenders, as well as extra-judicial killings by vigilante groups.

The EU position against the death penalty has been underlined through dialogue with the government and support to civil society organisations. An EIDHR project promoting forensic DNA analysis in death penalty cases was acknowledged as leading to the drafting of judicial guidelines regarding the proper use of DNA in

court, as helping one convict receive a presidential pardon based on DNA evidence, and as supporting the publication of two articles on DNA-profiling in child sexual abuse in prestigious international journals. The President of the Philippines has granted various reprieves to death penalty convicts, thereby instituting a de facto moratorium on the death penalty, with the last execution taking place in 2000.

The government of **Timor-Leste** (East Timor) takes a pragmatic approach to previous human rights violations, reflecting its desire for good relations with Indonesia. In December 2004 East Timor and Indonesia agreed to establish a Commission of Truth and Friendship to establish the truth about human rights violations committed immediately prior to and following the referendum held in 1999 which led to East Timor's independence. A Commission of Experts was established by the UN Secretary-General to evaluate the legal processes previously established in East Timor and Indonesia related to these human rights violations, and to consider ways in which its analysis could assist the Commission of Truth and Friendship. It reported to the UN Secretary-General in May 2005. Capacity problems remain in the justice sector, which threaten to overshadow other successes. UNOTIL (the UN Office in Timor Leste, successor to the UN peacekeeping Mission, UNMISSET) and bilateral programmes have given a commitment to tackling the issues undermining the justice sector. In March 2005 a Provedor (ombudsman) for Human Rights and Justice was appointed by East Timor, whose remit includes the protection of human rights.

## **6.5. The Middle East**

Serious violations of human rights have continued to occur in **Iran**. There has been little or no progress in the EU's main areas of concern since the last Annual Report.

EU representatives have discussed human rights concerns with the Iranian authorities on many occasions. The subjects raised have included the imposition of sentences of death or lashing on juvenile offenders, the authorities' harassment of people reporting or expressing their opinions peacefully, and the persecution of religious minorities, notably of Iran's largest such minority, the Bahá'ís. The EU has also voiced its concern at the closure of newspapers, the clampdown on web-bloggers and the detention of political prisoners. In June 2005, the EU expressed regret that a very large majority of candidates, including many reformists and all the women, were excluded from standing in the Presidential election. There have been no sessions of the EU/Iran human rights dialogue in the period of this Report. An evaluation of the dialogue in 2004 found that

since the start of the dialogue there has been little or no progress against the EU's benchmarks. The EU subsequently sought a renewed commitment to the process by Iran and agreement on improvements to its modalities (see chapter 3.3.2 for more information). In December 2004, all EU member states co-sponsored a resolution on human rights in Iran at the United Nations General Assembly. The resolution expressed serious concern at continuing violations of human rights, and called on Iran to abide by its freely undertaken international obligations.

The EU supplied three experts to work with the Independent Elections Commission for **Iraq** in the run-up to the January 2005 elections. On 1 July, the integrated rule of law Mission for Iraq (EU-JUST LEX) was due to enter its operational phase. The mission is providing management and criminal investigation training in EU member states for up to 770 senior officials from across Iraq's police force, judiciary and penitentiary services. The EU is also contributing 90 per cent of the cost of the UN Office for Constitutional Support (EUR 20 million) and will supply experts to work with the Constitutional Commission.

There was a small but significant improvement in **Saudi Arabia** this year. In April 2005 Saudi Arabia completed its first ever nation-wide elections for half of the seats on municipal councils. The EU welcomed this as an important first step in the electoral process. But it expressed disappointment that women were excluded from these elections, while welcoming statements made by the Saudi authorities that women would be allowed to vote in the next elections in 2009.

However, there remained serious concerns about the human rights situation, which were expressed, inter alia, in the EU statement at CHR: "Guarantees of the rights of the defence are still inadequate. There are frequent reports of torture and ill treatment of prisoners. A large number of crimes are punished by the death penalty. The practice of public execution continues." The EU also asked for clarification on the detentions of reformists, notably in April 2004 and March 2005, and a further démarche in May 2005 voiced disquiet at the harshness of their sentences.

Many aspects of the human rights situation in **Syria** remained of concern to the EU, which regularly raised them with the Syrian government. These included, inter alia, the continued practices of arbitrary arrests, unfair trials, the detention of political prisoners and torture, which run contrary to international human rights norms. Despite the pardon in March 2005 of 312 Syrian Kurds, the situation of Kurds in Syria has not really

improved and the EU missions in Damascus follow this closely. The EU was very concerned by the arrest of a number of human rights activists in May 2005 in advance of the Ba'ath Party Congress. The EU noted that the Congress, which was held in Damascus in June 2005, produced only limited reforms, which the EU views as the first step in the reform process. The EU-Syria Association Agreement was initialled in Brussels in October 2004. On signature, the provision for a human rights dialogue will be activated.

## **6.6. Analysis**

The reports on individual countries in this chapter demonstrate a mixed picture. In some countries, like Ukraine and Moldova, there has been real progress that seems likely to continue and deepen. In others, like DPRK and Iran, almost nothing has changed for the better. The influence of the EU varies enormously, and in most places it can only encourage and cajole, and occasionally condemn. However, the desire for democracy and respect for human rights among ordinary people remains real, genuine and widespread. Whenever people are given the chance to elect their government, as in Iraq and Afghanistan, they take it, even where this involves great personal risk. Where they are cheated of democracy, and denied their human rights, as in Burma/Myanmar and Zimbabwe, there is massive discontent that repressive governments cannot eradicate. The wide range of country situations described in this chapter underlines the importance of ongoing efforts to mainstream human rights through wider EU policies and practice. The EU's promotion of human rights can only be effective if it acts and speaks consistently, whether it is engaging in political dialogue, development policy or civilian crisis operations.

In Europe, the EU has significant influence and acts as a powerful catalyst for change. One example is Turkey, where the enlargement process has provided significant incentive for reform. Elsewhere, as in Africa and Asia, long term co-operation is slowly bearing fruit. EU co-operation with the African Union is strengthening the work of the African Commission on Human and Peoples' Rights, and the AU's capacity for peacekeeping work. In Sri Lanka, the EU has provided practical and political support to a peace process that is gradually becoming more sustained. While it is rare to see immediate or dramatic progress, the Ukraine is an example of what is possible when national momentum for change is given concerted support by the EU and wider international community. More often progress is slow and uneven. However this chapter

demonstrates that EU persistence and unity are crucial, both in providing moral and practical support for human rights defenders and reformers working for change, and to maintaining pressure on countries to live up to their international human rights obligations and to ensure the basic rights and freedoms of people within their jurisdictions.

## **7. Conclusion**

This seventh human rights annual report demonstrates the extent to which human rights, democracy and good governance now decisively underpin the EU's external policies. The increase in the membership of the EU to 25 has only served to enhance the common purpose of the member states. Many of the new member states have had recent experience of human rights abuses and the absence of democracy and this has added a sharper focus and impetus to EU work in this field.

The appointment of Michael Matthiessen as the Personal Representative on Human Rights to the Council's Secretary General, Javier Solana, together with an increasing number of EU Special Representatives, demonstrates that the EU is committed to dedicating resources and specialist skills to take forward its policies.

The strength of the EU resides in its potential to co-ordinate and co-operate on policies and actions. Where this is effective, as demonstrated in CHR and UNGA, then it has the capacity to be persuasive, effective and to add real value to the efforts of member states, such that the effect of the EU as a whole is much greater than the sum of its parts. The adoption of Common Strategies and Common Positions, by aligning the foreign policies of member states, has limited the capacity of human rights transgressors to divide the EU.

The report demonstrates that all the main political institutions of the EU play an active role in the promotion of human rights. Where the EU can demonstrate that it is fully respecting human rights within its borders, its voice on such issues carries greater authority when it speaks in international fora. It is noteworthy that the EU's stance on the death penalty carries greater weight, now that all member states have abolished it.

The successes highlighted in the report are very welcome. These include an enhanced regime to control the export of material used for torture, the tackling of child abuse via the internet, the focus on human rights defenders, and the promotion of the ICC within the States adhering to the Cotonou agreement. However, there have also been set-backs, including the failure to make real progress in a number of countries, and the active unwillingness of some in the UN General Assembly to address these situations. The reform of the UN machinery for protecting human rights is likely to be a major challenge for the EU in the year ahead.

Despite chequered progress the EU is convinced that the vast majority of Europeans support its work in favour of human rights, democracy and good governance, and it will continue to make these central to its policies and activities. This report demonstrates that progress is being made and that the EU is getting increasingly effective in what it does in this area.

### **Final remarks**

Sixty years after the end of World War II, it is unthinkable that any of the EU member states would go to war with each other. The peace and prosperity enjoyed by people living within the EU since its establishment is the direct consequence of respect for human rights and democracy being embedded within its laws, policies, actions and institutions. That is the major lesson that the EU can and should bring to the world's attention. We cannot afford to take these advantages for granted, which is why it is in our common interest to promote human rights and democracy wherever and whenever we can. The year ahead will see major challenges to human rights, both internally and externally, but the EU is determined to meet them so as to live up to its common commitments and to work for a better world for all.



## ANNEX I

### OVERVIEW OF PROJECTS SELECTED FOR SUPPORT UNDER EIDHR BETWEEN 1 JULY 2004 AND 30 JUNE 2005

#### I/ Projects selected through Global Calls for Proposals<sup>95</sup>

<b>Promotion of democratisation and Human Rights in Iran</b>			
<b>Organisation</b>	<b>Project Title</b>	<b>Country</b>	<b>Max EC contribution (EUR)</b>
The British Institute of international and comparative law	Promoting democratisation and Human Rights in Iran	Iran	1.043.851
UNICEF	Human Rights promotion in the Islamic Republic of Iran	Iran	980.000

<b>Strengthening Burmese Civil Society</b>			
<b>Organisation</b>	<b>Project Title</b>	<b>Country</b>	<b>Max EC contribution (EUR)</b>
Voluntary Service Overseas	Promoting democratisation, rights and reconciliation among five ethnic groups of Burma/Myanmar	Thailand/Burma	521,592

#### II/ Projects selected through Country Calls for Proposals

Country specific calls for EIDHR micro-projects were concluded for the following countries: Algeria, Angola, Belarus, Bosnia and Herzegovina, Cambodia, China (two calls), Colombia, DRC, Egypt, Ethiopia, Eritrea, Former Yugoslav Republic of Macedonia, Guatemala, Haiti, Indonesia, Ivory Coast, Jordan, Kazakhstan, Kyrgyzstan, Lebanon, Mexico (two calls), Morocco, Nepal, Nigeria, RDC, Rwanda, Russia, Serbia and Montenegro, Sudan, Tajikistan (three calls), Turkey, Ukraine, West Bank and Gaza,

<sup>95</sup> Final selection for the remaining 8 EIDHR calls launched will be concluded by September. It is foreseen that approximately 126 projects will be selected

### III/ Projects selected without a call for proposals<sup>96</sup>

Region	Number of projects	Max. EU contribution (EUR)
Europe	4	4.100.000
MEDA	6	5.470.000
Latin America	5	3.400.000
Asia	1	364.705
ACP	2	1.900.000
Global	4	7.000.000
<b>Total</b>	<b>22</b>	<b>22.234.705</b>

<b>EUROPE</b>			
Organisation	Title	Country	Max EU contribution (EUR)
OSCE/ODHIR	Joint Programme on promoting legislation reform and criminal justice in Central Asia	Central Asia	500.000
Council of Europe	Joint Programme of cooperation between EC and Council of Europe under EIDHR, relating to three strands: 1-Support to the Moscow School of Political Studies; 2-Support to a Programme for Russia called Russia VIII; 3-Support to a regional network of schools of political studies	Russian Federation, Balkans	2.200.000
University of Sarajevo	European Regional Master's Degree in Democracy and Human Rights in South East Europe (EU-SEE MA)	South East Europe	600.000
ICTY - International Criminal Tribunal for Yugoslavia	Activities in support of Outreach Programme facilitating the transition of Jurisdiction to local courts	Ex-Yugoslavia	800.000

<sup>96</sup> Excluding the Election Observation Missions.

<b>MEDA</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max EU contribution (EUR)</b>
Ministry of Education	Revision of School Texts to incorporate teaching about Human Rights	Algeria	750.000
Foundation for International Studies	Mediterranean Master's Degree in Human Rights and Democratisation (MEDA-MA)	MEDA Countries	720.000
UNODC -United Nations Office on Drugs and Crime	Assistance in the promotion of the reform process of the Judiciary and the Prison System in the Islamic Republic of Iran	Iran	900.000
UNDP	Promoting Democracy, Human Rights and the Rule of Law in the Middle East and Southern Mediterranean	MEDA Countries	1.000.000
UNDP	Contribution to the UNDP Iraq Trust Fund Cluster 11: support to electoral process	Iraq	1.000.000
<i>under negotiation</i>			1.100.000

<b>Latin America</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max EU contribution (EUR)</b>
IACHR Inter-America Court of Human Rights	Strengthening and increase of judicial action of the Inter-American Court of Human Rights in the American Continent	Latin America	600.000
OHCHR	Implementation of Recommendations of UHCHR on Human Rights Diagnostic	Mexico	600.000
OHCHR	Enhance the capacity of Fiscalia General and Accountability	Colombia	600.000
OHCHR	Strengthening the national Human Rights Protection System in Guatemala	Guatemala	800.000
OHCHR	OHCHR Activities in Guatemala and Mexico Assistance to governmental Institutions, local offices, capacity building of groups of indigenous peoples	Guatemala, Mexico	800.000

<b>Asia</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max EU contribution (EUR)</b>
Just World Partners	Peoples' Voices – Helping Indigenous People to Decide their own Development	Indonesia	364.705

<b>ACP</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max EU contribution (EUR)</b>
Ministry of Justice / TIG	Reconciliation Project between the Victims of the Genocide and those who committed the crimes through a Rehabilitation Programme	Rwanda	400.000
ICTR - International Criminal Tribunal for Rwanda	Activities to create a support system for witnesses and victims	Rwanda	1.500.000

<b>World Wide</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max EU contribution (EUR)</b>
OHCHR	Strengthening the Implementation of Human Rights Treaty through the Enhancement of national Protection mechanisms - Complementary Phase	Worldwide	2.000.000
UNICEF	Leave no Child out	Worldwide	500.000
Folke Bernadotte Academy	Training for Civilian Aspects of Crisis Management	Worldwide	2.700.000
International Criminal Court (ICC)	Activities to complete the clerkship and traineeship programme	Worldwide	1.800.000

## ANNEX II

### Further Information Websites

A great deal of additional information on the European Union is available on the internet. It can be accessed through the Europa server at: <http://europa.eu.int>

Europe Direct is a service to help you find answers to your questions about the European Union, you can contact them on the following freephone number: 00 800 6 7 8 9 10 11

Further information about the EU's human rights policy is available at:

<http://ue.eu.int/human-rights>

[http://europa.eu.int/comm/external\\_relations/human\\_rights/intro](http://europa.eu.int/comm/external_relations/human_rights/intro)

[http://www.europarl.eu.int/comparl/human\\_rights/default\\_en.htm](http://www.europarl.eu.int/comparl/human_rights/default_en.htm)

As mentioned in this report there are a number of International Organisations which are involved in human rights work. Their websites provide further detail on their actions in this field:

United Nations; [www.un.org](http://www.un.org)

International Labour Organisation; [www.ilo.org](http://www.ilo.org)

UN Office of the High Commissioner for Human Rights; [www.unhchr.ch](http://www.unhchr.ch)

International Criminal Court; [www.icc-cpi.int](http://www.icc-cpi.int)

Council of Europe; [www.coe.int](http://www.coe.int)

European Court of Human Rights; [www.echr.coe.int/echr](http://www.echr.coe.int/echr)

Organisation for Security and Co-operation in Europe; [www.osce.org](http://www.osce.org)

African Union; [www.africa-union.org](http://www.africa-union.org)

Organisation of American States; [www.oas.org](http://www.oas.org)

There are a number of international NGOs which provide a wealth of information on human rights issues across the globe on their various websites, including:

Amnesty International; [www.amnesty.org](http://www.amnesty.org)

Human Rights Watch; [www.hrw.org](http://www.hrw.org)

International Federation of Human Rights (FIDH); [www.fidh.org](http://www.fidh.org)

The International Committee of the Red Cross; [www.icrc.org](http://www.icrc.org)

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