

## Information Guide



## Human Rights in Europe

**A guide to Human Rights within the European Union and in the wider Europe, with hyperlinks to sources of information within European Sources Online and on external websites**

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## Introduction

With the entry into force of the Lisbon Treaty (Treaty on the Functioning of the European Union), the Charter of Fundamental Rights of the European Union has become legally binding. This leads to a substantial reinforcement of European Union governance by the rule of law. It is a milestone on a path begun decades ago. Before, it was the case law of the Court of Justice that obliged the Union to respect fundamental rights. Now, the Charter embodies in a single, coherent and legally-binding instrument the fundamental rights which are binding upon the EU institutions and bodies.

The Charter is not just a text setting out abstract principles. It needs to be put into practice whenever the EU institutions and bodies take action or EU law is otherwise implemented, so that people can effectively enjoy their fundamental rights. That is why the European Commission, in 2010, adopted a Strategy on the effective implementation of the Charter. The objective is that the Union sets an example. The Charter must be respected at each stage of law-making in the EU – from the day the European Commission starts preparing its proposals, throughout their amendments in the legislative process and up to the day they enter into force once adopted by the European Parliament and by the Council, and to their implementation by Member States.

From: 2010 Report on the Application of the EU Charter of Fundamental Rights [COM\(2011\)160](#), 30 March 2011.

This whole subject is not without controversy. Academics and politicians debate, discuss and dispute the concept, definition and necessity of 'human rights'. As a result consensus is often elusive. However, this guide assumes that 'human rights' is some sort of set of basic entitlements that ought to be enjoyed by and secured for all human beings, simply on the basis that they are human. On 8 May 2015, the First Vice-President of the European Commission Frans Timmermans further emphasized this idea during the presentation of the 2014 report on the application of the European Charter of Fundamental Rights, when he stated that 'fundamental rights embody the values of a free, open and inclusive society, and we all share a responsibility to safeguard and promote them in all we do' (see [Press Release](#)).

## Brief historical overview

The passage of the past millennium has been marked by various attempts legally to define, limit and hold accountable those who exercise power and to provide remedies for breaches and abuses.

As far as the United Kingdom is concerned one could think immediately of the [Magna Carta](#), signed in 1215 by England's King John, which aimed to define the respective rights of the king and his subjects. Further developments were made judicially, for example in the cases of [Prohibitions del Roy](#) (1607) 12 Co Rep 6; ER 1342, ruling that the King could not arrest anyone or pass judgment in person in court; and [Case of Proclamations](#) (1611) 12 Co Rep; 77 ER 1352 confirming that the King could not simply change the law by royal prerogative i.e. no arbitrary government. This jurisprudence saw firm establishment in The (English) [Bill of Rights 1689](#) securely anchoring in law the principle that the Crown's powers were subject to laws passed by Parliament and that the Crown itself was subject to Parliament. In addition, judicial decisions continued to extend the rights of individual subjects: *Bushell's Case* (1670) 24 Eng Rep 1006 (the principle of the independence of a jury in trials) and *R v Knowles, ex parte Somerset* (1772) Lofft 1; 98 ER 499 (slavery ruled abhorrent).

On the world scene, the American [Declaration of Independence](#) (1776) and the [Declaration of the Rights of Man and of the Citizen](#) emerging from the French Revolution of 1789 both stressed the natural rights of man ('all men are created equal'). The American [Bill of Rights](#), detailing immunities of individual citizens, was eventually accepted in the form of amendments to the Constitution and ratified in 1791.

The wider concept of 'international human rights law' may be said to flow from the codification of the laws of war and conflict that occurred in the eighteenth century and through treaties in the nineteenth and early twentieth century such as the first [Geneva Convention](#) of 1864; and the Anti-Slavery Act resulting from the Brussels Conference of 1890 initiating international anti-slavery enforcement procedures.

'Modern human rights' though really stems from the United Nations' [Universal Declaration of Human Rights](#) (1948), which recognised that it is essential that human rights be protected by the rule of law. It was not however until 1966, (the delay explained by the 'Cold War') that the Universal Declaration received force in the form of two legally binding Covenants the [International Covenant on Civil and Political Rights](#) and the [International Covenant on Economic, Social and Cultural Rights](#).

Now, 10 December each year is celebrated as [International Human Rights Day](#), marking the anniversary of the Assembly's adoption of the Universal Declaration of Human Rights in 1948 (see [Resolution 423\(V\)](#)).

In March 2007, the EU signed the United Nations [Convention on the Rights of Persons with Disabilities](#), intended to 'ensure that people with disabilities enjoy human rights and fundamental freedoms on an equal basis with everyone else' (see Press Release [IP/07/446](#))

On 12 August 2009, a Declaration was issued by the Presidency 'on behalf of the European Union on the Occasion of the 60th Anniversary of the adoption of the four [Geneva Conventions of 1949](#) (see Press Release [12535/1/09](#)). It stated:

On the occasion of the 60th anniversary of the adoption of the four Geneva Conventions for the protection of those who do not, or no longer, take part in hostilities, the European Union reiterates the importance that it attaches to the Geneva Conventions, which are at the heart of international humanitarian law.

On Human Rights Day 2009, the Commission issued Press Release [IP/09/1901](#), giving an overview of relevant issues and actions at EU level, and in 2010 issued Press Release [IP/10/1697](#) giving a brief background to human rights in EU policies.

## **European Convention on Human Rights**

The Council of Europe's (CoE) [Convention for the Protection of Human Rights and Fundamental Freedoms](#), (more popularly known as the [European Convention on Human Rights](#), or ECHR) signed on 4 November 1950, was one of the first initiatives that sought to give a 'regional' dimension and legal force to the rights stated in the United Nations' Universal Declaration of Human Rights. It was followed for example, by the American Convention in 1969 and the African Charter in 1979. The ECHR identifies certain civil and political rights and freedoms:

- Right to life
- Prohibition of torture
- Prohibition of slavery and forced labour
- Right to liberty and security
- Right to a fair trial
- No punishment without law

- Right to respect for private and family life
- Freedom of thought, conscience and religion
- Freedom of expression
- Freedom of assembly and association
- Right to marry
- Right to an effective remedy
- Prohibition of discrimination
- Derogation in time of emergency
- Restrictions on political activities of aliens.

A number of Protocols to the Convention have been adopted, some of which add further rights and liberties.

Three institutions were set up:

- European Commission of Human Rights (1954) - for preliminary examinations to determine admissibility
- European Court of Human Rights (1959) - for judgments and decisions
- Committee of Ministers of the Council of Europe (i.e. Foreign Ministers of the Member States) - which had an adjudicative role.

[Protocol no. 11](#) replaced or repealed all the previous protocols to the Convention and changed the three-tier structure to a single full-time court on 1 November 1998. The aim of Protocol 11 was to simplify the structure, shorten the length of the proceedings and strengthen the juridical character of the system by making it compulsory and abolishing the Committee of Minister's adjudicative role. The European Commission of Human Rights continued until the end of 1999. The (new) [European Court of Human Rights](#) is a single, full-time court.

In June 2007, the European Commission proposed, with the Council of Europe, that 10 October each year be recognised as [European Day against the Death Penalty](#) and a year later, on 16 June 2008, the European Union revised and updated the [EU Guidelines on the Death Penalty](#), referring to the issue as an integral part of human rights policies in all the Member States:

Having signed the [13<sup>th</sup> Protocol](#) to the European Convention on Human Rights (ECHR), all European Union (EU) countries are committed to the permanent abolition of the death penalty in all circumstances. They are also committed to the application of the EU Charter of Fundamental Rights, whereby “no one shall be condemned to the death penalty, or executed”.

While presenting the objectives of the European policy on the universal abolition of the death penalty, the document also aimed to promote the establishment of a moratorium on the use of the capital punishment in non-EU countries and to apply a minimum series of standards when the death penalty was to be maintained.

On 10 October 2008, a Joint Declaration was signed by the Presidents of the European Parliament, Council and Commission, and by Council of Europe representatives, confirming their commitment to continue to work towards the universal abolition of capital punishment (see Press Releases [IP/07/850](#) and [IP/08/1481](#)).

The Commission continues to issue similar Press Releases/briefings each October to mark the World and European Day against the Death Penalty (see [2010](#) Briefing, [2011](#) Press Release) evidencing and summarising EU efforts to achieve this goal.

The [Treaty of Lisbon](#) provides for the EU to accede to the European Convention on Human Rights and the accession became a legal obligation under said treaty, entering

into force on 1 December 2009. On 17 March 2010, the Commission adopted negotiating documents relating to the proposed accession to the ECHR, with the aim of making the Council of Europe's European Court of Human Rights (ECtHR):

competent to review acts of the EU institutions, bodies and agencies, including rulings by the European Court of Justice, for respect of the European Convention on Human Rights.

Accession would also enable individuals to take complaints to the European Court of Human Rights once they had exhausted domestic remedies (see Press Releases [IP/10/291](#) and [MEMO/10/84](#)) and it would strengthen the protection of human rights in Europe as it would submit the Union and its legal acts to the jurisdiction to the above stated court.

On 1 June 2010, the same year that the Convention celebrated its 60<sup>th</sup> anniversary, [Protocol No. 14](#) entered into force amending the previous text. The protocol was a response to the flaws detected back in 2004 in the control mechanism set by the 1950 Convention and in order to improve the effectiveness of the European Court of Human Rights (see [European Convention on Human Rights 2010](#)).

On 7 July 2010, the European Commission – on behalf of the EU Justice Ministers – and the Steering Committee for Human Rights (CDDH) – on behalf of the Committee of Ministers of the Council of Europe – began negotiating the elaboration of the necessary legal instruments for the EU's accession to the ECHR (see Press Release [IP/10/906](#) and CoE page on [EU accession to the ECHR](#)). 7 experts from EU member States and other 7 from non-EU member States of the Council composed the deliberating group entrusted by the CDDH to elaborate the accession agreement. The group held several meetings between July 2010 and June 2011 and finally produced a final version of the draft instruments ([CDDH-UE\(2011\)16](#)) on 19 July 2011. The text focuses mainly on:

- provisions on the scope of the accession
- the technical adaptations needed to the ECHR text
- the participation of the EU in Council of Europe bodies involved in the ECHR
- the possible further adaptation of the ECtHR system to the specificities of the EU system.

The document was transmitted to the CDDH but given the political implications of some of the aspects proposed on the agreement, in October 2011 the CDDH decided to transmit an explanatory report ([CDDH\(2011\)009](#)) – alongside the draft instruments and a draft rule to be added to the Rules of the Committee of Ministers – to the Committee of Ministers for consideration and guidance.

On June 2012, the Committee of Ministers installed the CDDH to pursue negotiations with the EU in a 47+1 group. This group went on to held several meetings in Strasbourg on 21 June 2012, 17-19 September 2012, 7-9 November 2012, 21-23 January 2013 and 3-5 April 2013. It was on this meeting in April that a draft agreement was finalised by the negotiations of the 47 member states and the EU. The Secretary General of the Council of Europe, Thorbjørn Jagland welcomed the decision stating that:

This is a decisive step, paving the way to EU accession to the European Convention of Human Rights. It will contribute to the creation of a single European legal space, putting in place the missing link in the European system of fundamental rights protection.

The text was published later on in June 2013 ([47+1\(2013\)008rev2](#)) and, as of July 2013, is awaiting the opinion of the EU Court of Justice in Luxembourg. Afterwards, the text will then require the unanimous approval of the EU's member states, the support of the

European Parliament (with a two-thirds majority) and the ratification of the parliaments in the Council of Europe's 47 member states.

On 16 May 2013, the Committee of Ministers adopted the [Protocol No.15](#) amending the Convention on Protection of Human Rights and Fundamental Freedoms. The Protocol was signed in Strasbourg on the 24<sup>th</sup> of June of that same year and made the following changes to the Convention in order to maintain the efficiency of the ECtHR:

- added a reference to the principle of subsidiarity and the doctrine of the margin of appreciation to the Preamble
- shortened from 6 to 4 the time limit within which an application must be made to the ECtHR
- amended the 'significant disadvantage' admissibility criterion to remove the second safeguard preventing rejection of an application that has not been duly considered by a domestic tribunal
- removed the right of the parties to a case to object relinquishment of jurisdiction over it by a Chamber in favour of the Grand Chamber
- replaced the upper age limit for judges.

A further amendment to the text occurred on 2 October 2013, when [Protocol No.16](#) was signed.

## **Organisation for Security and Co-operation in Europe**

The [Organisation for Security and Co-operation in Europe](#) (OSCE) is the largest regional security organisation in the world, whose 56 [participating states](#) are from Europe, Central Asia and North America. On 1 August 1975, 35 countries signed the Conference on Security and Co-operation in Europe Final Act (better known as the [Helsinki Final Act](#)) as a primary instrument for early warning conflict prevention, crisis management and post-conflict rehabilitation under [Chapter VIII](#) of the United Nations' Charter.

All OSCE participating states have equal status and decisions are based on consensus. The OSCE addresses a wide range of security-related issues including arms control, preventive diplomacy, confidence-building and security-building measures, and human rights, election monitoring and economic and environmental security. It made a major contribution to the collapse of totalitarian states in Europe. An important element of the Helsinki Final Act is the encouragement it gave to human rights movements. In 2001 the OSCE published its [OSCE human dimension commitments: a reference guide](#).

Among its institutions is the [Office for Democratic Institutions and Human Rights](#) (ODIHR). Human dimension implementation meetings are held in Warsaw to review the implementation of OSCE commitments in the field of human rights and democracy (the human dimension) by participating states. The annual 10 day meetings are attended by representatives of the participating states, NGOs, international organisations and institutions. Supplementary shorter human dimension implementation meetings are held in Vienna, three times a year, to focus on a key substantive issue.

Another OSCE institution is the [Office of the High Commissioner on National Minorities](#) (HCNM) which aims to identify and resolve ethnic tensions that might endanger peace or stability in the participating countries.

The [Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings](#) supports the development and implementation of anti-trafficking policies in OSCE participating States.

# The European Union and Human Rights

## Legal Basis

Human rights and fundamental freedoms were hardly mentioned in the original Treaty establishing the European Economic Community (1957). Although accepted as one of the pieces of background structure to the EEC project that is nevertheless were they stayed for some considerable time. Part of the explanation may be that 'human rights ' was not seen as one of the principle concerns of the Community and was better left to the Council of Europe and the European Court of Human Rights (ECtHR). It was realised however, that the success of the European project was dependent on the supremacy of Community law ([Costa v E.N.E.L.](#), Case 6/64 [1964] ECR 585):

By contrast with ordinary international treaties, the EEC treaty has created its own legal system which, on the entry into force of the treaty, became an integral part of the legal systems of the member states and which their courts are bound to apply.

By creating a community of unlimited duration, having its own institutions, its own personality, its own legal capacity and capacity of representation on the international plane and, more particularly, real powers stemming from a limitation of sovereignty or a transfer of powers from the states to the community, the member states have limited their sovereign rights, albeit within limited fields, and have thus created a body of law which binds both their nationals and themselves.

The integration into the laws of each member state of provisions which derive from the community, and more generally the terms and the spirit of the treaty, make it impossible for the states, as a corollary, to accord precedence to a unilateral and subsequent measure over a legal system accepted by them on a basis of reciprocity. Such a measure cannot therefore be inconsistent with that legal system. The executive force of community law cannot vary from one state to another in deference to subsequent domestic laws, without jeopardizing the attainment of the objectives of the treaty...

This though faced challenges from a number of Member States' constitutional courts, fearful of the erosion of basic national constitutional rights. For example the German Constitutional Court in 1967 held that since the Community legal order lacked specific protection for human rights, this 'Costa transfer' had to be measured against German domestic constitutional provisions. Consequently the Court of Justice began to articulate its own 'human rights jurisprudence', for example:

- that the fundamental rights of individuals were enshrined in and formed part of the general principles of Community law and as such were to be protected by the Court ([Stauder v City of Ulm](#), Case 29/69 [1969] ECR 419, 427)

- that such respect is "inspired" by the constitutional traditions of Member States ([Internationale Handelsgesellschaft mbH v Einfuhr- und Vorratsstelle für Getreide und Futtermittel](#) Case 11/70 [1970] ECR 1125) (although the particular national tradition in question did not necessarily have to be followed by the ECJ)

- that international agreements on which Member States had collaborated on, or were a party to, can supply guidelines in the Court's assessments ([Nold, Kohlen- und Baustoffgroßhandlung v Commission](#), Case 4/73 [1974] ECR 491)

- that the ECHR formed part of the 'general principles' of EU law, for example:

Art 8. (right to privacy) [National Panasonic \(UK\) Ltd v Commission](#) (Case 136/79 [1980] ECR 2033)

Art.10 (right to expression) [Vereniging ter Bevordering van het Vlaamsche Boekwezen \(VBVB\) and Vereniging ter Bevordering van de Belangen des Boekhandels \(VBBB\) v Commission](#) (Cases 43 and 63/82 [1982] ECR 1241).

Then in 1977 the European Parliament, the Council and the Commission issued a [Declaration on Fundamental Rights](#) but it was not until the creation of the European Union in 1993, under the Treaty on European Union, that human rights were explicitly mentioned in the Treaties.

The Preamble to the current [Treaty on European Union](#) (TEU) mentions both human and fundamental rights:

Drawing inspiration from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law,...

Confirming their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law,

Confirming their attachment to fundamental social rights as defined in the [European Social Charter](#) signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers.

Article 2 of the TEU states:

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Article 3(5) provides that:

In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.

Article 6(1) TEU confirms that the Charter of Fundamental Rights has the same legal value as the Treaties (see section below on the Charter). Article 6(2) provides for the EU to accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms, and 6(3) require that the fundamental rights guaranteed by the Convention constitute general principles of EU law.

Title V of the TEU concerns the Union's Common Foreign and Security Policy. Article 21 states, in part, that:

1. The Union's action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, the rule of law, the universality



and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law.

[...]

2. The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to:

- (a) safeguard its values, fundamental interests, security, independence and integrity;
- (b) consolidate and support democracy, the rule of law, human rights and the principles of international law.

In the [Treaty on the Functioning of the European Union](#) (TFEU), Article 67(1) states:

The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.

The Treaty of Lisbon also includes two Protocols relevant to human rights: a [Protocol](#) 'relating to Article 6(2) of the Treaty on European Union on the accession of the Union to the European Convention on the Protection of Human Rights and Fundamental Freedoms' and a [Protocol](#) 'on the application of the Charter of Fundamental Rights of the European Union to Poland and to the United Kingdom'. The latter provides that:

#### Article 1

1. The Charter does not extend the ability of the Court of Justice of the European Union, or any court or tribunal of Poland or of the United Kingdom, to find that the laws, regulations or administrative provisions, practices or action of Poland or of the United Kingdom are inconsistent with the fundamental rights, freedoms and principles that it reaffirms.

2. In particular, and for the avoidance of doubt, nothing in Title IV of the Charter creates justiciable rights applicable to Poland or the United Kingdom except in so far as Poland or the United Kingdom has provided for such rights in its national law.

#### Article 2

To the extent that a provision of the Charter refers to national laws and practices, it shall only apply to Poland or the United Kingdom to the extent that the rights or principles that it contains are recognised in the law or practices of Poland or of the United Kingdom.

### **Charter of Fundamental Rights**

The Treaty of Lisbon entered into force on 1 December 2009. On 30 March 2010, the text of the Charter of Fundamental Rights was published in the Official Journal as [2010/C 83/02](#).

A 'Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union' was adopted by the Commission on 19 October 2010 as [COM \(2010\)573](#) (see also Press Release [IP/10/1348](#)). It stated:

Decisive steps have been taken towards a Europe of fundamental rights. The Charter of Fundamental Rights of the European Union has become legally binding and the Union is going to accede to the European Convention on Human Rights. The European Parliament and the European Council have made promotion of

fundamental rights in the Union one of their priorities for the future of the area of justice, freedom and security. There is now a member of the Commission with specific responsibility for the promotion of justice, fundamental rights and citizenship, and the members of the European Commission promised, in a solemn undertaking before the Court of Justice, to uphold the Charter. More generally, the Lisbon Treaty is a major step forward in that it has extended the co-decision procedure, removed the pillar structure set up under the earlier Treaty, given the Court of Justice general responsibility in the field of freedom, security and justice, and confirmed the place of human rights at the heart of the Union's external action.

At the 24-25 February 2011 Justice and Home affairs Council, Ministers adopted [Conclusions](#) 'on the role of the Council of the European Union in ensuring the effective implementation of the Charter of Fundamental Rights of the European Union'.

On 30 March 2011, the Commission adopted the '2010 Report on the Application of the EU Charter of Fundamental Rights' ([COM\(2011\)160](#); see also Press Releases [IP/11/386](#) and [MEMO/11/207](#)). The first such annual report, it concluded:

To ensure that citizens fully benefit from the EU Charter of Fundamental Rights, EU institutions as well as the national authorities must clearly explain where the Charter applies, and where it does not. This first Annual Report is a first concrete step taken by the Commission to this end.

The Commission will present such a report each year in order to monitor progress made in the application of and compliance with the Charter and to ensure that the EU maintains an impeccable fundamental rights record. The Annual Reports will support the effective enforcement of the Charter in a continuous, determined and transparent manner with the involvement of all interested parties. With these reports, the Commission intends to offer an opportunity for an annual exchange of views with the European Parliament and the Council on the application of the Charter. The Commission will take stock in the coming years of the lessons that can be drawn from the effective implementation of the Charter, as well as of the concerns expressed by individuals, and will adjust its actions accordingly.

According to the accompanying Commission Staff Working Document [SEC \(2011\)396](#):

The Charter of Fundamental Rights is the EU's bill of rights. With the entry into force of the Lisbon Treaty the Charter became legally binding. It is an historic breakthrough in reinforcing a Europe of rights and values. The Charter brings together in one text all the fundamental rights protected at Union level, spelling them out in detail and making them visible and predictable.

The Charter is not just a text setting out values and principles which can only be used in theory. The Charter was conceived to be an instrument that enables people to effectively enjoy fundamental rights in all the situations that are governed by EU law. It is a living instrument, which should be put in practice daily by the EU institutions, as well as by Member States only when they are implementing EU law.

On 8 May 2013, the Commission published the '2012 Report on the Application of the EU Charter of Fundamental Rights' ([COM\(2013\)271 final](#)). The report highlighted that, after just three years in force as primary law, there had been an increase in referencing to the Charter by EU Institutions and European and national courts when EU law is involved:

In Case [Up-690/10](#), D. Vizgirda v. Supreme Court of the Republic of Slovenia, 10.05.2012, the Constitutional Court of the Republic of Slovenia annulled the

decision of the Supreme Court to uphold the expulsion decision of a Lithuanian national from the Slovenian territory on grounds of public policy or public security, ascertaining that the measure constituted interference in the applicant's right to respect for private and family life recognised by Article 7 of the Charter and Article 8 of the ECHR. [Please note - this document is in Slovenian]

In Case [2008/22/0223](#) of the Austrian Supreme Administrative Court, decision of 13.12.2011, the Austrian Supreme Administrative Court considered that the decision rejecting residence permission for the purposes of family reunion of a third country national with his Austrian husband had to be repealed, referring to [Case C-256/11](#) (Murate Dereci and Others v Bundesministerium für Inneres) of the Court of Justice of the European Union and reminding that the right to private and family life as protected by Article 7 of the charter had to be taken into consideration. [Please note - this document is in German]

In [Case C-360/10](#), Belgische Vereniging van Auteurs, Componisten en Uitgevers CVBA (SABAM) v Netlog NV, 16.02.2012, the European Court of Justice ruled that social media platform Netlog was not required to monitor and filter their users' communications to prevent copyright infringement, stating that the filtering system being sought by SABAM would violate Netlog's users' right to protection of their personal data, enshrined in Article 8 of the Charter of Fundamental Rights of the EU (see also [Case C-70/10](#), Scarlet Extended SA v Société belge des auteurs, compositeurs et éditeurs SCRL (SABAM)).

These practices have all been welcomed by the Commission who sees in them an important step towards a more coherent system for the protection of fundamental rights and a guarantee to equal levels of rights and protection in all Member States, whenever EU law is being implemented.

On 7 June 2013, the Council of the European Union adopted [Conclusions](#) on the Commission's 2012 report as well as on fundamental rights and rule of law (see [Press Release](#)).

On 8 May 2015, the Council adopted the [2014 Report on the application of the EU Charter of Fundamental Rights](#). The report focused for the first time in the fundamental rights on the internet and the challenging issues of effective protection of personal data within the digital sphere. It also praised the raising number of European Union Courts that refer to the Charter in their decisions, which went from just 43 in 2011 to 210 in 2014, qualifying this positive change as 'an important step forward to build a more coherent system for the protection of fundamental rights, which guarantees equal levels of protection in all Member States, whenever EU law is being implemented' (see [Press Release](#)).

The report also established that the Commission will organise an annual Colloquium on Fundamental rights, whose first meeting took place on 1-2 October 2015 and focused on the promotion of tolerance and respect, with an emphasis on preventing and combating anti-Semitic and anti-Muslim hatred.

## **Background to the Charter**

The decision to draw up a Charter of Fundamental Rights of the European Union, and to have it 'proclaimed' at the Nice European Summit in December 2001, was taken by the European Council when it met in Cologne, Germany, in June 1999 (see [Presidency Conclusions](#)). It took the view that, at the present stage of development of the European Union, the fundamental rights applicable at Union level should be consolidated in a Charter and thereby made more evident.

In October 1999, at the Tampere European Council, leaders laid down the composition and working methods of the body responsible for drawing up the draft Charter (see [Presidency Conclusions](#)). Representatives from the Member States, the European Commission and the European Parliament formed a Convention, chaired by former German President, Roman Herzog, to prepare the text, and a draft Charter of Fundamental Rights of the European Union was drawn up in July 2000.

Since the European Court of Justice had in 1996 ruled out the accession of the EU as a whole to the European Convention on Human Rights the Charter was seen as a way to combine the rights guaranteed by this Convention with those rights arising from citizenship of the European Union.

The European Commission adopted two Communications on the draft Charter. In the first document, the 'Communication on the Charter of Fundamental Rights of the European Union' ([COM \(2000\)559](#)), the Commission stated that:

The Union cannot be based exclusively on purely economic considerations. On the contrary, it must henceforth seek its roots in the fundamental human values common to all European countries. This is a necessary precondition if the people of Europe are to place their trust in the continuing task of European integration. We must prove to them that the Union provides a framework with which they can identify.

In the second, the 'Communication on the legal nature of the Charter of Fundamental Rights of the European Union' ([COM \(2000\)644](#)) the European Commission addressed the question of the legal status of the Charter:

the Charter will have an impact whatever its status. The institutions that will have proclaimed the Charter will have committed themselves to respecting it and the Court of Justice of the European Communities will refer to it in its case law. Considering the added value of the Charter, one can safely reckon that, sooner or later, the Charter will be integrated in the treaties. The Nice summit will decide how this may come about.

However, at the December 2000 Nice European Council, because of the position taken by the United Kingdom, the [Charter of Fundamental Rights of the European Union](#) was 'proclaimed' as a non-binding political declaration rather than a legally binding document. Compared to the ECHR (which was confined to civil and political rights) the Charter includes a wide range of social, economic, cultural and civil rights:

- Right to life
- Respect for private and family life
- Protection of personal data
- Right to education
- Freedom to conduct a business
- Equality between men and women
- Fair and just working conditions
- Right of collective bargaining and action
- Access to EU documents
- Rights of elderly to life of dignity.

However, unlike the ECHR it does not provide a right of individual petition to the ECJ (contrast Art.34 ECHR). Should it ever become legally binding in its present form an individual alleging breach of the Charter would have to request his/her national court to make an Art.267 [Treaty on the Functioning of the EU](#) reference to the ECJ for a ruling on the application of the Charter to the litigation in question.

(For more information, see [Summaries of EU legislation](#)).

The precise legal status of the Charter was uncertain. As [Research Paper 14, 2002](#) from the United Kingdom House of Commons said:

Its impact in the post-Nice period is somewhat unclear. The uncertainty over its status leaves the European Court of Justice (ECJ) with a creative role with regard to human rights in the Member States, as well as an interpretative one. The Charter is not legally binding, is of uncertain political value and is not internally justiciable because it is outside the remit of EC competence. However, the ECJ is unlikely to ignore its provisions, particularly as the EU moves towards a more human rights-based constitutionalism.

The question of the legal status of the Charter, that is whether to make it legally binding, featured prominently in the debate on the future of Europe. This debate culminated in the drafting of a Constitutional Treaty for Europe which was meant to be the next major Treaty revision.

The formula that had been applied to the drafting of the Charter of Fundamental Rights had proved so successful - creating consensus in an ad hoc body, on the basis of a draft within a deadline set by the European Council - that many people felt it could resolve other issues facing the EU. Thus, it was a [Convention on the Future of Europe](#) that was launched in February 2002.

The Convention produced a [draft Treaty establishing a Constitution for Europe](#) in July 2003, but it was not until June 2004 that EU leaders, meeting at the Intergovernmental Conference (IGC) in Brussels on 18 June 2004, could agree a final text (see Council documents [CIG 81/04](#), [CIG 85/04](#), [CIG 86/04](#)). The Treaty was signed by EU Heads of State and Government on 29 October 2004.

Following rejection of the Constitutional Treaty in referenda in France and the Netherlands in May and June 2005, the European Council of 16-17 June 2005 decided to suspend the ratification process for a 'period of reflection' (see Press Release [SN 117/05](#)). Following that period of reflection, an [Intergovernmental Conference 2007](#) convened which agreed a new Treaty, signed by the Heads of State or Government of the 27 Member States in Lisbon on 13 December 2007 (see [Taking Europe into the 21st century](#)) [archived].

## **EU institutions and bodies**

The Heads of State and Government, meeting in the European Council, define the general political guidelines of the European Union, and therefore also touch upon issues relating to human rights. The more specific principles and priorities of [EU human rights policy](#), however, are set out by Ministers in the Council, either in its configuration as [Foreign Affairs Council](#) or as [Justice and Home Affairs Council](#) (JHA). The Council has issued a number of guidelines, including [EU guidelines on human rights dialogues with third countries](#) [Guidelines: Human Rights and International Humanitarian Law](#) and in June 2012 the first unified [Strategic Framework on Human Rights and Democracy](#); which celebrated its first anniversary in July 2013, when the Council adopted [Conclusions](#) to ensure the EU's human rights policy continues to have visibility and relevance beyond European borders.

(More information on the Council's current activities and statements in the field of human rights can be found by doing a full text search of [Council Press Releases](#)).

In the field of human rights the Council is supported, on different levels of its internal hierarchy, by several bodies. The [Political and Security Committee](#) (PSC) carries out

tasks of monitoring the international situation and contributes to the definition of Council policies. A number of working parties deal with human rights issues, among them the Working Party on Human Rights (COHOM), the OSCE Working Party and the working parties with geographical scope.

On 1 July 2010, the European Commission's [Directorate-General for Justice](#) was formed from the previous DG for Justice, Freedom and Security. The DG has three directorates: Civil Justice, Criminal Justice, and Fundamental Rights and Citizenship.

Human rights in relations with third countries are the responsibility of the European External Action Service (EEAS; see [The EU and human rights](#) and [Human Rights and Democracy at the heart of EU external action](#)). In 2012, it prepared and launched the EU's first [Strategic Framework and Action Plan on Human Rights and Democracy](#) to foster a human rights culture within the EU and further develop the EU's policies regarding human rights by adopting new guidelines. On 20 July 2015, the EU adopted the [Human Rights and Democracy Action Plan 2015 – 2020](#). The new strategy aims to:

- reinforce ownership of local institutions and civil society actors;
- address human rights challenges;
- ensure comprehensive human rights approaches to conflicts and crises;
- foster better internal and external coherence and efficiency;
- guarantee a more effective human rights and democracy support policy.

In its [2014 Annual Report on Human Rights and Democracy](#) the EU revealed that:

Throughout 2014, the EU engaged in formal human rights dialogues and consultations with 37 partner countries and regional groupings. In addition, many of the 79 African, Caribbean and Pacific countries that are party to the Cotonou Agreement conducted a dialogue with the EU. For the first time, a human rights dialogue was held with Myanmar/Burma.

As part of the commitment of the EU to safeguarding human rights and democracy, clauses on human rights are now commonly included in all types of agreements with third countries, including those concluded with EU candidate countries (Europe Agreements and Association Agreements). According to the criteria for EU accession set out in 1993 – the [Copenhagen criteria](#) – an acceding State must embrace the values of the European Union, including 'respect for and protection of human rights and minorities'. There is therefore a generally held view, that ironically, it has been this insistence by the EU that has led to concrete human rights improvements in the Central and Eastern European states and in Turkey rather than the direct influence of the Council of Europe and the ECtHR.

Each year the European Commission publishes Regular Reports on the progress made by each of the candidate countries towards accession, which include monitoring of the human rights situation (see the [Enlargement Directorate General](#) website). Since the Commission does not have any legal competence to scrutinise and make recommendations on the human rights performance of existing Member States, it has been accused of applying double standards towards future and present Member States.

In its dealings with third countries the European Commission disposes of a number of funding instruments to support human rights related projects in third countries. The [European Instrument for Democracy and Human Rights](#), administered by [EuropeAid](#), the EU's Co-operation Office, aims at strengthening civil societies in third countries and involving non-governmental organisations (see also section below on Funding).

At the December 2003 European Council, EU leaders, 'stressing the importance of human rights data collection and analysis with a view to defining Union policy in this field,

agreed to build upon the existing European Monitoring Centre on Racism and Xenophobia and to extend its mandate to make it a Human Rights Agency to that effect' (see [Presidency Conclusions](#)).

The [European Union Agency for Fundamental Rights](#) (or 'Fundamental Rights Agency' - FRA) was subsequently established by [Council Regulation 168/2007](#) of 15 February 2007 and launched on 1 March 2007 (see Press Releases [IP/07/266](#) and [MEMO/07/89](#)).

Based in Vienna, the FRA's goal is to provide relevant institutions and authorities of the Community and its Member States with assistance and expertise on fundamental rights when implementing community law, and to support them in taking measures and formulating appropriate courses of action. Its main tasks are to:

- collect, analyse and disseminate objective, reliable and comparable information related to the situation of fundamental rights in the EU
- develop comparability and reliability of data through new methods and standards
- carry out and / or promote research and studies in the fundamental rights field
- formulate and publish conclusions and opinions on specific topics, on its own initiative or at the request of the European Parliament, the Council or the Commission
- promote dialogue with civil society in order to raise public awareness of fundamental rights.

Through numerous resolutions, recommendations and reports as well as a continuous debate on the issue, the European Parliament has made itself a name as a strong advocate of human rights among the EU's institutions. Parliament's [Committee on Foreign Affairs](#) (AFET) is assisted by a [Subcommittee on Human Rights](#) (DROI).

The EU's internal human rights situation comes under the European Parliament's [Committee on Civil Liberties, Justice and Home Affairs](#) (LIBE).

Following long discussions as to whether the European Community should as a whole accede to the European Convention on Human Rights, and despite the Court's [Opinion 2/94](#) of 28 March 1996 that it was not then within the Community's powers to accede to the Convention, Article 6(2) of the [Treaty on European Union](#) now provides for the EU to accede to the European Convention on Human Rights.

The office of the [European Ombudsman](#) was created by the Treaty on European Union. Citizens, businesses and organisations can turn to the ombudsman, who is appointed by the European Parliament, with complaints about maladministration in the institutions and bodies of the European Union, including the violation of human rights.

The [European Data Protection Supervisor](#) (EDPS) was set up in 2001 as an independent supervisory body, responsible for monitoring the EU's institutions with regard to their application of the Community's legal acts on data protection.

On 25 January 2012, the European Commission published 'Safeguarding Privacy in a Connected World. A European Data Protection Framework for the 21<sup>st</sup> Century' ([COM\(2012\)9 final](#)). The document addresses the need of a comprehensive EU data protection reform to adapt to society's demands, especially those related to the protection of their rights on the internet (Press Release [IP/12/46](#); see also [MEMO/12/41](#)). This decision falls in accordance with the EDPS' Annual Report of 2011 which reported in June 2012 that a consistent and effective approach to privacy and data protection was required ([EDPS/11/12](#)). Beyond reinforcing individuals' fundamental right to data protection, the framework also aims to respect other rights such as:

freedom of expression and information, the right of the child, the right to conduct a business, the right to a fair trial and professional secrecy (such as for the legal profession), as well as the status of churches under Member States' laws.

The reform has:

- first of all benefit individuals by strengthening their data protection rights and their trust in the digital environment.
- furthermore simplify the legal environment for business and the public sector substantially. This is expected to stimulate the development of the digital economy across the EU's Single Market and beyond, in line with the objectives of the [Europe 2020 Strategy](#) and the [Digital Agenda for Europe](#).
- Enhance trust among law enforcement authorities in order to facilitate exchanges of data between them and cooperation in the fight against serious crime, while ensuring a high level of protection for individuals.

THE EDPS has also acted as an intervening party in support of the Commission at hearings of cases between the Commission and Member States brought to the Court of Justice of the European Union (see Commission v Germany ([Case C-518/07](#)) and Commission v Austria ([Case C-614/10](#))).

## Funding

Proposed in June 2006, the European Instrument for Democracy and Human Rights replaced the earlier European Initiative for Democracy and Human Rights ([EIDHR](#)) from 1 January 2007. The Initiative was created by [Regulation 1889/2006](#) 'on establishing a financing instrument for the promotion of democracy and human rights worldwide'. The [EIDHR Strategy Paper 2007-2010](#) identified five objectives:

- Enhancing respect for human rights and fundamental freedoms in countries and regions where they are most at risk;
- Strengthening the role of civil society in promoting human rights and democratic reform, in supporting the peaceful conciliation of group interests and in consolidating political participation and representation;
- Supporting actions on human rights and democracy issues in areas covered by EU Guidelines, including on human rights dialogues, on human rights defenders, on the death penalty, on torture, and on children and armed conflict;
- Supporting and strengthening the international and regional framework for the protection of human rights, justice, the rule of law and the promotion of democracy;
- Building confidence in and enhancing the reliability and transparency of democratic electoral processes, in particular through election observation.

Speaking when the new Instrument was proposed, Commissioner Ferrero-Waldner said: 'The European Union is deeply committed to promoting democracy and human rights worldwide and our external assistance is a means to this end ... this new complementary financing instrument ... will enable us in the years to come not only to continue but to reinforce and improve the EU's financial assistance to build democracy and promote human rights abroad' (see Press Release [IP/06/891](#)).

A framework programme for funding initiatives on fundamental rights and justice had a budget of €542.9 million for 2007-2013 (see [Funding - Fundamental rights and Justice](#)). The framework comprises five elements, addressing:

- Violence against children, young people and women ([Daphne III](#))
- [Drug prevention and information](#)
- [Fundamental rights and citizenship](#)



- [Civil justice](#)
- [Criminal Justice](#)

On 21 April 2010, the European Instrument for Democracy and Human Rights adopted the [EIDHR Strategy Paper 2011-2013](#). Although its main objectives remain identical to those set on the previous strategy, the new plan sees the number of areas covered by the EU Guidelines expanded and therefore also aims to support actions on the rights of the child, on violence against women and girls and combat all forms of discrimination against them, on International Humanitarian Law and on possible future guidelines.

Over the past six years, the EU has contributed billions to the EIDHR's [Annual Action Programme](#) (AAP), allowing it to fund thousands of projects in over 100 countries and continue the promotion of democracy and human rights, as well as human right defenders, beyond European borders

On 1 January 2014, the new [EIDHR Strategy Paper 2014-2020](#) entered into force and, as in previous years, the budget for the period has been raised, reaching the staggering sum of €1.332.752.000.

In its dealings with third countries the European Commission also disposes of the Commission's Directorate-General (DG) for Development and Cooperation – [EuropeAid](#). Established on 3 January 2011, this funding instrument is the result of the merger of parts of the former Directorate-General for Development and Relations in African, Caribbean and Pacific States with the former EuropeAid Co-operation Office. EuropeAid is responsible for defining EU development policy and ensuring the effective programming and implementation of aid. Its main objectives are:

- reducing poverty in the world
- ensuring sustainable development
- promoting democracy, peace and security.

The Commission's 'Report on the interim evaluation of the 'Fundamental Rights and Citizenship' Programme 2007 - 2013' was adopted on 5 May 2011 as [COM \(2011\)249](#). It confirmed the importance of the Programme in promoting respect for fundamental rights, encouraging dialogue and fighting racism and xenophobia, and claimed that demand for funding showed the potential for the programme to further develop and expand.

A 'Report on the interim evaluation of the Daphne III Programme 2007–2013' was adopted by the Commission on 11 May 2011 as [COM \(2011\)254](#).

### **The rights of children, women and other groups**

The Commission's Strategic Objectives 2005-2009 (published as [COM \(2005\)12](#); see also Press Release [IP/06/927](#)) identified children's rights as one of its main priorities and in July 2006 the Commission launched an EU strategy to promote and safeguard the rights of the child. 'Towards an EU Strategy on the Rights of the Child' ([COM \(2006\)367](#)) identified six specific objectives:

- capitalising on existing activities while addressing urgent needs
- identifying priorities for future EU action
- mainstreaming children's rights in EU actions
- establishing efficient coordination and consultation mechanisms
- enhancing capacity and expertise on children's rights
- designing a communication strategy on children's rights.

A version of COM (2006)367, produced for the 13-18 age group, was issued as [YOU and the EU! ... The European Commission's Children's rights policy](#) (see also [MEMO/08/340](#) and the Commission's page on [Rights of the Child](#)).

The European Forum for the rights of the child was established in 2007, following adoption of the 2006 Communication 'Towards an EU strategy on the Rights of the Child'. The Forum's role is to advise and assist the Commission and other EU institutions, with particular regard to the mainstreaming of children's rights and the exchange information and good practice (see Press Release [MEMO/08/137](#) and the Commission's page on the [European Forum on the Rights of the Child](#)).

Ahead of International Day for the Elimination of Violence against Women on 25 November 2008, the Commission underlined 'its commitment to fight any form and expression of gender-based violence and to protect and reintegrate victims, in close cooperation with Member States and civil society organisations' (see Press Release [IP/08/1757](#)).

Speaking before International Women's Day on 8 March 2009, Commissioner Benita Ferrero-Waldner reaffirmed the Commission's commitment to fight for women rights and called for greater consistency in the implementation of UN Security Council Resolution 1325 (2000) on women, peace and security (see Press Release [IP/09/363](#)).

On the same day, Commission Vice-President Jacques Barrot said: 'Violence against women deprives them of their fundamental freedoms and is a major obstacle to equality between the sexes. The European Commission is therefore determined to use its political, legislative and financial powers and resources to help to eradicate violence against women in Europe and elsewhere' (Press Release [IP/09/368](#)).

On 20 November 2009, the Commission issued Press Release [IP/09/1776](#) marking the 20th anniversary of the [UN Convention on the Rights of the Child](#) (UNCRC).

In May 2010, the Commission published [Human Rights and democracy in the world: Report on EU action July 2008 to December 2009](#). The preface stated:

The European Union has come a long way since its first human rights report was published in 1999. At that time, the EU set itself the target to ensure that all pertinent means for action are available within the framework of the Union, including through the possible publication of an annual [EU Human Rights Report](#). This report gives an overview of our many activities.

A public consultation on a new EU children's rights strategy was launched on 11 June 2010, covering issues such as child-friendly justice, violence against children, child poverty and child participation (see Press Release [IP/10/722](#)). 'An EU Agenda for the Rights of the Child' was subsequently adopted on 15 February 2011 as [COM \(2011\)60](#) (see also Press Release [IP/11/156](#)). It concludes:

With this EU Agenda for the Rights of the Child, the Commission calls on the EU institutions and on the Member States to renew their commitment to step up efforts in protecting and promoting the rights of children. The action of the EU should be exemplary in ensuring the respect of the provisions of the Treaties, the Charter of Fundamental Rights of the European Union and of the UNCRC with regard to the rights of children. The Commission will review regularly progress made in the implementation of the EU Agenda for the Rights of the Child in its Annual Report on the application of the Charter.

As underlined in the Europe 2020 Strategy, the long-term effects of not investing enough in policies affecting children may have a profound impact on our societies.

Many of these policies require determined action by the Member States, and the Commission is ready to offer its support and cooperation. The Commission will continue to play its part in joint efforts to achieve well-being and safety of all children. A renewed commitment of all actors is necessary to bring to life the vision of a world where children can be children and can safely live, play, learn, develop their full potential, and make the most of all existing opportunities.

The Communication 'EU citizenship report 2010: Dismantling the obstacles to EU citizens' rights' ([COM \(2010\)603](#) of 27 October 2010) shows:

how EU citizenship - the essential link to the EU - brings rights and benefits to citizens. It describes main obstacles that citizens still encounter in their daily lives when they exercise their EU rights across national borders and outlines the measures envisaged to empower them to enjoy their rights.

The Commission also adopted an accompanying report 'On progress towards effective EU Citizenship 2007-2010' ([COM \(2010\)602](#)).

On 21 February 2011, the Council adopted [Conclusions](#) 'on intolerance, discrimination and violence on the basis of religion or belief', stating:

Freedom of religion or belief is a universal human right which needs to be protected everywhere and for everyone. It is the primary duty of States to protect their citizens, including persons belonging to religious minorities, as well as all people living in their jurisdiction, and safeguard their rights. All persons belonging to religious communities and minorities should be able to practice their religion and worship freely, individually or in community with others, without fear of intolerance and attacks.

On 12 April 2011, the Council published the '[Convention on preventing and combating violence against women and domestic violence](#)'. The Convention is the first legally binding instrument of its kind in the world and creates a legal framework to not only prevent violence against women and protect the victims of said violence, but also to end with the impunity of perpetrators. The Convention aims to:

- protect women against all forms of violence
- contribute to the elimination of all forms of discrimination against women and promote equality between women and men
- design policies and measure for the protection of and assistance to all victims of violence against women
- promote international co-operation
- provide support and assistance to organisations and law enforcement agencies.

Furthermore, it also defines and criminalises several forms of violence perpetrated against women such as forced marriage, female genital mutilation and stalking to name a few.

In June 2011, the Council published its standards on '[Combating discrimination on grounds of sexual orientation or gender identity](#)' and three months later on, in September of 2011, a report on '[Discrimination on grounds of sexual orientation and gender identity in Europe](#)' was published. The study revealed that many lesbian, gay, bisexual and transgender persons in Europe are stigmatised because of their actual or perceived sexuality and gender identity.

On 15 February 2012, the Council of Europe adopted a new '[Council of Europe Strategy for the Rights of the Child \(2012-2015\)](#)', also known as the Monaco Strategy, to protect and promote children's rights and provide guidance to its 47 member states on how to

bridge the gap between the EU's principles on the matter and practice. The main objectives of the strategy are as follows:

- promoting child-friendly services and systems in the areas of justice, health and social services
- eliminating all forms of violence against children
- guaranteeing the rights of children in vulnerable situations
- promoting child participation.

In March 2014, a [progress report](#) on the implementation of the Monaco Strategy was published on the occasion of the Dubrovnik Conference "Growing with Children's Rights." The conference served to review the strategy and revealed three problems to be addressed in the next strategy cycle. The new issues are:

- the current economic situation in Europe and its consequences on children and families across member states;
- the increased use of new technologies and the risks and threats;
- the "hyper-sexualisation" of today's society and the need to develop rules and regulations in this area.

Between 21-22 October 2015, representatives of the Council of Europe member States, met with international organisations and civil society in Strasbourg to finalise the upcoming Strategy for the Rights of the Child for the period 2016 – 2021 which is to be launched in April 2016.

In May 2012, the Council of Europe made public its Activity Report 2011 and revealed that despite positive developments had taken place and States had adapted their legislation or practice to the European Social Charter, 258 violations of said charter had taken place in the year of the text's 50<sup>th</sup> anniversary. It also noted a significant increase in the number of collective complaints since 1998. The findings came after exhaustive analyses performed in 39 states. The main areas of study were:

- the rights of children, both inside and outside the labour market
- the right to maternity protection
- rights related to the protection of the family
- the rights of migrant workers
- the right to housing.

As a result, the European Committee of Social Rights adopted 950 conclusions.

Almost a year afterwards, in April 2013, the Council presented its 'Activity Report 2012' and noted that the work carried out by the European Committee of Social rights was more prominent and more effective where it came to protecting human dignity.

On 24 June 2013, the Council adopted '[Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex \(LGBTI\) persons](#)'. The document is legally binding and provides instructions to EU institutions and Member States on how to make further progress on human rights of LGBTI people.

On 28 June 2013, Sweden became the 27<sup>th</sup> country to ratify the [Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse](#) (also known as the Lanzarote Convention). As of July 2013, 46 states have signed the Convention and 27 states have ratified it, proving the commitment of European countries to making the fight against sexual assault against minors a political priority. Additionally, the [Lanzarote Committee](#) was established to monitor compliance with the Convention by the States Parties adopting at its 5<sup>th</sup> meeting on 21 May 2013 the two questionnaires that would be used to perform the assessment:

the Lanzarote Committee has [...] decided that the monitoring of the implementation of the Convention shall be based on a procedure divided by rounds, each round concerning a theme. The first round is specifically targeted to ask States Parties questions concerning the theme of "Sexual abuse of children in the circle of trust" (Thematic Questionnaire).

Additionally, the Committee also agreed to take stock of the legislation, institutional set-up and policies for the implementation of the Convention in general (General Questionnaire).

The questionnaires were to be completed and sent by the Parties to the Committee by 31 January 2014. However, on 3 November 2014, on the occasion of the Committee's 9<sup>th</sup> meeting in Strasbourg in September, they published a report ([T-ES \(2014\)](#)) that revealed that as of 30 May 2014 up to 8 States Parties had not replied to the two questionnaires and that relevant domestic case-law was often missing from the submitted replies.

During this meeting, a draft of the 1<sup>st</sup> Lanzarote Committee activity report was also examined and new meetings arranged for 2015.

Finally, on 4 December 2015, the Lanzarote Committee adopted its [1<sup>st</sup> monitoring report](#). Covering 26 European countries, it assesses the:

- criminalisation of sexual abuse of children in their circle of trust;
- collection of data;
- best interested of the child and child friendly criminal proceedings;
- corporate liability with respect to such cases.

## **Independent Assessment of the EU's human rights performance**

### **The European Court of Human Rights (ECtHR)**

Although as of July 2013, a draft agreement has been reached to the European Union's accession to the European Convention of Human Rights, the text has yet to be approved and therefore the EU is still not subjected to the jurisdiction of the ECtHR. However, all 27 Member States individually are. Furthermore, [issues relating to EU law](#) have often been raised in cases before the (former) European Commission of Human Rights and also the ECtHR.

An illustration of the interaction of the two systems was supplied by the litigation arising out of the status of Gibraltar in relation to elections to the European Parliament. In [Matthews v UK](#) (Case 24833/94 [1999] 28 EHRR 361), although a case involving the UK, the EU itself was 'in the dock' in that the ECtHR ruled that the limited status for Gibraltar residents provided by the EC Act on Direct Elections 1976 infringed Art. 3 of Protocol 1 of the ECHR (right to free elections). As the Act was a Treaty, the ECJ did not have power to review it. Consequently, the applicant was deprived of a remedy in EU law and had to resort to the ECtHR.

The ruling of the ECtHR led to a change in UK law (the European Parliament (Representation) Act 2003). This in turn ignited further litigation before the ECJ, when Spain alleged that the legislation amounted to a breach by the UK of EU law (Art. 17 EC Treaty, now Art. 20 TFEU). The ECJ however held that the UK could not be penalised for compliance with a judgment of the ECtHR. ([Spain v UK](#), Case 145/04 [2006] ECR 7917).

### **European Commission against Racism and Intolerance (ECRI)**

Established in October 1993 by the first Summit of Heads of State and Government of the member States of the Council of Europe, the [European Commission against Racism](#)

[and Intolerance](#) (ECRI) is an independent human rights monitoring body specialised in combating racism, xenophobia, anti-Semitism and intolerance in Europe. Its main objectives are:

- reviewing member states' legislation, policies and other measures to combat racism, xenophobia, anti-Semitism and intolerance, and their effectiveness
- proposing further action at local, national and European level
- formulating general policy recommendations to member states
- studying international legal instruments applicable in the matter with a view to their reinforcement where appropriate.

### **International Federation for Human Rights**

Founded in 1922, the [International Federation for Human Rights](#) (FIDH) today numbers 164 member organisations in over 100 countries. This Paris based independent NGO is perhaps the oldest human rights organisation in the world.

Its current mission is to promote respect for all the rights set out in the [Universal Declaration of Human Rights](#), the [International Covenant on Civil and Political Rights](#) and the [International Covenant on Economic, Social and Cultural Rights](#). This includes monitoring, assessing and reporting on the performance of the European Union.

### **Amnesty International**

On Sunday, 28 May 1961 the Weekend Review of the British newspaper The Observer published an [Appeal for Amnesty](#) for six political prisoners, jailed for expressing political or religious beliefs. This led to the formation of [Amnesty International](#), which monitors human rights throughout the world and publishes reports on infringements or violations. Its reports now have such authority that they cannot be ignored by national governments. In 1977, Amnesty International was awarded the Nobel Peace Prize.

Amnesty International has a [Eurocentric office](#) monitoring among other matters the human rights performance of the EU institutions.

### **Human Rights Watch**

This American-founded Non-Governmental Organisation (NGO) has its origins in 1978 as 'Helsinki Watch' and the human rights monitoring of the compliance of the then Soviet Union with its obligations under the 'Helsinki Accords'. Further similar monitoring committees followed as 'Americas Watch' (1981), 'Asia Watch' (1985), 'Africa Watch' (1988), and 'Middle East Watch' (1989). In 1988 all of these committees were united under one umbrella to form [Human Rights Watch](#).

Human Rights Watch regularly produces researched reports (including on the [European Union and its Member States](#)) on violations of/compliance with the Universal Declaration of Human Rights and other internationally accepted human rights norms.

In its [World Report 2013](#), the EU was criticized for failing on its efforts to protect human rights guaranteed by the Charter; a report that contrasts widely with the positivism found in the EU institutions' reports of the last two years:

In the face of a political and economic crisis affecting the European Union and many of its member states, protection of human rights was rarely a priority in 2012, especially when those negatively affected marginalized or unpopular groups, such as Roma, migrants and asylum seekers.

Despite deteriorating rights in Hungary and elsewhere, EU institutions largely failed to live up to the promise of the EU Charter of Fundamental Rights, with the European Council particularly reluctant to hold member states to account for abuse.

'A stronger European Union commitment to human rights protection inside its own borders' has also been requested in the [World Report 2015](#). While the financial crisis and the rise of Eurosceptic parties in the European Parliament elections of May 2014 are pointed as the main cause for the weakened resolution of the EU, the report also expresses concern for the reluctance of the Council to press member states on abusive practices.

The role of the EU as an international defender at the UN Human Rights Council and UN General Assembly is also questioned since it 'has failed to play a leading role in bringing new human rights crisis [...] to the agenda of multilateral forums' and 'throughout 2014, the EU's response to the crackdown on human rights defenders and activists worldwide was inconsistent. Strong responses, such as the EU condemnation of the life sentence handed to China, tended to be the exception rather than the norm.'

On 16 November 2015, Human Rights Watch also expressed concerned about the ongoing refugee crisis in Europe and the need for European Union governments to 'take urgent action to Bring Europe's response to the refugee challenge [...] in line with their legal responsibilities and stated values.'

### **Statewatch**

Founded in 1991, [Statewatch](#) is a non-profit network of lawyers, academics, journalists, researchers and community activists which monitors the state and civil liberties in Europe.

### **Information sources in the ESO database**

Find updated and further information sources in the ESO database:

#### [3.2.d Human Rights \[all categories\]](#)

- [Key source](#)
- [Legislation](#)
- [Policy-making](#)
- [Report](#)
- [Statistics](#)
- [News source](#)
- [Periodical article](#)
- [Textbook, monograph or reference](#)
- [Background](#)

#### [18.1.b Human rights in third countries](#)

#### [19.4 European Court of Human Rights - European Convention on Human Rights](#)

### **Further information sources on the internet**

- European Commission: DG Justice
  - [Homepage](#)
  - [Justice website](#)
    - [Fundamental rights](#)

- DG EuropeAid
  - [Homepage](#)
    - [Human rights and democracy](#)
- Europa
  - Policy areas: [Human rights](#)
  - Summaries of EU legislation
    - [Human rights](#) (includes factsheets under the headings: [Fundamental rights within the European Union](#), [Human rights in non-EU countries](#))
- European Commission: DG Communication
  - [RAPID](#) press releases database - [Justice, fundamental rights and citizenship](#) (pre-set search) or on main [RAPID](#) page add 'HUMRIGHTS' as keyword for material on human rights in the field of EU external policies or 'FRA' for material on the Fundamental Rights Agency
- European Union: EUR-Lex
 

The text of proposed and adopted legislation relating to human rights can be found via EUR-Lex (note there are very few acts)

  - [Proposed](#) – (19 Area of freedom, security and justice)
  - [Adopted](#) (19 Area of freedom, security and justice)
  - [Consolidated](#)
  - [Summaries of Legislation](#)
  - [Procedures](#) (information which used to be available via PreLex)
  - [Treaty on European Union](#) Preamble, Articles 2, 3(5), 6, 21
  - [Treaty on the Functioning of the European Union](#) Article 67(1)
  - [Protocol](#) on accession of the EU to the European Convention on the Protection of Human Rights and Fundamental Freedoms
  - [Protocol](#) on the application of the Charter of Fundamental Rights to Poland and the UK
- European External Action Service (EEAS)
  - [Homepage](#)
    - [The EU and human rights](#)
- Court of Justice of the European Union (CURIA)
  - [Homepage](#)
  - Opinions and judgments since June 1997 (on the [search form](#), in 'Field' select 'Area of Freedom, Security and Justice', 'Justice and home affairs' or use appropriate keywords to find relevant cases)
- European Parliament: OEIL
 

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- European Parliament: Fact Sheets
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- United Kingdom: House of Commons Library
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**Ariane Apodaca**  
**ESO Editorial Consultant**  
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