

Finding out about...

# the EU and human rights

**In July, the European Commission launched an online consultation on combating discrimination in areas outside employment.**

Although all Member States have implemented the Race Equality Directive and the Employment Equality Directive (Directives 2000/43/EC and 2000/78/EC respectively), levels of protection vary.

The scope of the Employment Equality Directive is limited to employment and training environments, whilst the Race Equality Directive has much wider application, and also covers social protection, health care, education, housing, and access to goods and services.

The Commission is, however, concerned that, outside work, there is less protection for those discriminated against because of sexual orientation, disability or age. Consequently, the Commission is therefore considering proposing new measures in 2008 to strengthen the legislative framework.

## Background

This initiative continues the Union's long interest in human rights. The principle of equal pay for men and women was included in the 1957 European Economic Community Treaty (the EEC Treaty - now the European Community or EC Treaty) and the European Court of Justice recognised in 1974 that fundamental rights form part of the general principles of Community law (because of the constitutional traditions of the Member States and their accession to relevant international Treaties - notably the European Convention on Human Rights).

In 1978, the Copenhagen European Council adopted a Declaration on Democracy, which stated that respect for - and maintenance of - representative democracy and human rights were essential prerequisites for Community membership. The 'Solemn Declaration on European Union', adopted by the 1983 Stuttgart European Council, both reaffirmed the Declaration on Democracy and fed into the 1986 Single European Act - in which fundamental rights were mentioned in the Preamble.

The 1997 Treaty of Amsterdam made clear the EU commitment to basic rights. It amended the text of Article F of the Treaty on European Union (the Maastricht or EU Treaty). The text of what has since become Article 6 (2) of the EU Treaty now states:

"The Union shall respect fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and as they result from the constitutional traditions common to the Member States, as general principles of Community law."

Amsterdam also introduced a new Article 13 into the European Community Treaty, enabling the Council to "take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation."

The Union's growing interest in this area was further highlighted in 1999, when the Commission published a Communication 'on certain Community measures to combat discrimination' (COM (1999) 564). Intended to

give effect to the new Article 13, it provided for Directives (since adopted) on employment equality and race equality, and for an action programme to raise awareness of discrimination, by supporting and supplementing Member States' efforts to combat it (with the exception of sex discrimination).

A 'Community Action Programme to combat discrimination (2001-2006)' was subsequently adopted in 2001. It was succeeded by 'PROGRESS' - the Union's Programme for Employment and Social Solidarity. Adopted at the end of 2006, PROGRESS funds a range of activities aimed at combating racism and xenophobia within the Member States.

Covering the period 2007 to 2013, it has five main elements: employment; social protection and inclusion; working conditions; diversity and combating discrimination; and equality between women and men. PROGRESS helps fund a range of activities, including:

- ▶ analyses
- ▶ awareness-raising and dissemination
- ▶ training seminars
- ▶ staff exchanges between national administrations
- ▶ cooperation with international institutions

## Year of Equal Opportunities for All

Based around the concepts of rights, recognition, representation and respect, the 2007 European Year of Equal Opportunities for All aims to:

- ▶ make people more aware of their rights to enjoy equal treatment and a life free of discrimination, irrespective of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation
- ▶ promote equal opportunities for all
- ▶ launch a debate on the benefits of diversity, for both societies and individuals

The Year has its roots in the Commission's 2005 Communication 'Non-discrimination and equal opportunities for all - A framework strategy' (COM (2005) 224), in which the Commission argued that "There is a need to go beyond anti-discrimination policies designed to prevent unequal treatment of individuals. The EU should reinforce its efforts to promote equal opportunities for all, in order to tackle the structural barriers faced by migrants, ethnic minorities, the disabled, older and younger workers and other vulnerable groups."

### Charter of Fundamental Rights

Despite various statements in the Treaties, they themselves provide no list of fundamental rights. It is therefore to the Charter of Fundamental Rights, proclaimed in December 2000, that EU citizens must look for all the rights - personal, civil, political, economic and social - to which they are entitled.

The Charter is divided into six sections, covering: Dignity, Freedoms, Equality, Solidarity, Citizen's rights, and Justice.

The legal status of the Charter seems likely to change under the new 'Reform Treaty'. Article 6 of the draft Treaty states - in part - that the Union "recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of 7 December 2000 ... which shall have the same legal value as the Treaties" (i.e. the Treaty would make the provisions of the Charter legally binding). It would not, however, have the same status in all Member States: the UK has negotiated an 'opt-out', which might also be taken up by Ireland and Poland.

"Human rights, democracy and the rule of law are core values of the European Union. Embedded in its founding treaty, they have been reinforced by the adoption of a Charter of Fundamental Rights. Respect for human rights is a prerequisite for countries seeking to join the Union and a precondition for countries who have concluded trade and other agreements with it."

From the introduction to the 'Human rights' section of 'Summaries of legislation' [europa.eu/scadplus/leg/en/s20001.htm]



### European Union Agency for Fundamental Rights

In the Union's 'Annual Report on Human Rights 2006', Erkki Tuomioja, Finland's Minister for Foreign Affairs wrote that "... no country is perfect in terms of human rights, and the EU, too, must be prepared to take a critical look at its contribution in the field of human rights and be open to outside scrutiny."

"The increase of member states" said the Report, "has even more highlighted the need to follow up and act on EU's internal experiences of human rights abuses. The EU must demonstrate that it fully respects human rights within its borders [sic] and reacts effectively to possible internal breaches. It is only then that the EU will carry greater authority on the international fora."

In February 2007, the Agency for Fundamental Rights (FRA) was created when the Council adopted Regulation 168/2007. Based in Vienna, its remit 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."

It replaces the European Monitoring Centre on Racism and Xenophobia (EUMC), which was established in 1997. Launched this March, the Agency is expected to be fully operational in 2008.

## Beyond the EU

The EU also takes steps to promote human rights outside its own borders. Trade or cooperation agreements with third countries include provisions on human rights, as do other initiatives - e.g. the Union's Neighbourhood Policy, in which human rights are amongst a set of 'common values' which also include democracy and the rule of law.

Set up in 1994, the European Initiative for Democracy and Human Rights (EIDHR) focused on four areas: strengthening democracy, good governance and the rule of law; abolishing the death penalty; combating torture and repressive measures; fighting racism and discrimination.

It was succeeded in 2006 by the similarly-named European Instrument for Democracy and Human Rights (also EIDHR). The current programme, spanning 2007 to 2013, promotes and supports human rights and democracy throughout the world. Amongst its objectives are:

- ▶ 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 conflict prevention 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 observing elections

## European Convention on Human Rights

Established in 1950, the European Convention on Human Rights is administered by the Council of Europe (CoE) not the EU. It focuses on civil and political rights, and is thus narrower in scope than the EU Charter of Fundamental Rights, which also covers issues such as good administration and the protection of personal data.

At present, the EU cannot accede to the European Convention, which is only open to sovereign states. However, it seems likely that the Reform Treaty would enable the EU to sign the Convention - providing the Council of Europe allowed it to do so. If the EU does accede, the CoE's European Court of Human Rights would have the power to monitor fundamental rights in the EU.

## Sakharov Prize

Awarded by the European Parliament each year since 1988, the Sakharov Prize for Freedom of Thought recognises the efforts of individuals or organisations in fighting oppression and injustice. The Prize is awarded in Strasbourg on or around 10 December - the date on which the UN Universal Declaration of Human Rights was signed in 1948.

The 2007 finalists - shortlisted at a joint meeting of Parliament's Foreign Affairs and Development Committees - were the Russian journalist Anna Politkovskaya, Sudanese lawyer Salih Mahmoud Osman, and Chinese dissidents Zeng Jinyan and Hu Jia. It was announced on 25 October that the winner was Salih Mahmoud Osman.

The Prize is just one manifestation of the European Parliament's interest in human rights, which - according to the 'EU Annual Report on Human Rights 2005' - also includes "resolutions, reports, missions to third countries, human rights events, inter parliamentary delegations and joint parliamentary committees with third countries, oral and written questions, [and] special hearings on individual questions ..."

## Information sources

Details of the online consultation on combating discrimination in areas beyond the job market - deadline 15 October - can be found at [ec.europa.eu/yourvoice/consultations](http://ec.europa.eu/yourvoice/consultations).

The scope of the Union's interest in this area can be gauged from the 'Activities of the European Union - Human Rights' page accessed from the main Europa menu ([europa.eu](http://europa.eu) - select 'Human rights' from the default 'Activities' tab). The 'Summaries of legislation' section of the page highlights a range of relevant topics, divided into:

- 'Fundamental rights within the European Union' ('The Charter of Fundamental Rights', 'Dignity', 'Freedoms', 'Equality', 'Solidarity', 'Citizens' rights', 'Justice') and
- 'Human rights outside the European Union' ('European Initiative for Democracy and Human Rights', 'Combating the death penalty', 'Combating torture', 'Combating racism', 'Combating war crimes and genocide', 'Electoral observation and assistance', 'Indigenous peoples' rights', 'Children's rights').

The 'Action against discrimination, Civil Society' website of the DG for Employment, Social Affairs & Equal Opportunities includes sections on 'The law', 'Your rights and obligations', 'Action against discrimination', and a discrimination FAQ. The URL is [ec.europa.eu/employment\\_social/fundamental\\_rights](http://ec.europa.eu/employment_social/fundamental_rights).

Both the European Year of Equal Opportunities for All website and the PROGRESS site are also hosted by the DG for Employment, Social Affairs & Equal Opportunities. They can be found via the DG site ([ec.europa.eu/employment\\_social](http://ec.europa.eu/employment_social)) or direct at [ec.europa.eu/employment\\_social/eyeq](http://ec.europa.eu/employment_social/eyeq) and [ec.europa.eu/employment\\_social/progress](http://ec.europa.eu/employment_social/progress) respectively.

The Charter of Fundamental Rights is available on the website of the Commission's Directorate-General for Justice, Freedom and Security. It can be accessed direct at [ec.europa.eu/justice\\_home/unit/charte/index\\_en.html](http://ec.europa.eu/justice_home/unit/charte/index_en.html) or via the DG website at [ec.europa.eu/justice\\_home](http://ec.europa.eu/justice_home) (follow the 'Freedom, Security and

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“Europeans have a right to enjoy equal treatment and a life free of discrimination. The 2007 European Year of Equal Opportunities for All aims to ensure they all know this.”

Vladimír Špidla, European Commissioner for Employment, Social Affairs and Equal Opportunities

## Information sources

Justice' - FSJ - link). The FSJ site includes a 'Fundamental rights' section, subdivided into 'Treaties', 'Charter', 'Discrimination', and 'EU network of independent experts'.

The Treaties are available on EUR-Lex ([eur-lex.europa.eu/en/index.htm](http://eur-lex.europa.eu/en/index.htm)). of particular interest are Articles 6, 7, 11 and 49 of the Treaty on European Union, and Articles 13 and 177 of the Treaty establishing the European Community.

The text of the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms can be found via the CoE's Treaties website at [conventions.coe.int](http://conventions.coe.int).

The Commission's pages on External Relations ([ec.europa.eu/external\\_relations/index.htm](http://ec.europa.eu/external_relations/index.htm)) include a section on 'The EU's Human rights & Democratisation Policy' ([ec.europa.eu/external\\_relations/human\\_rights/doc/index.htm](http://ec.europa.eu/external_relations/human_rights/doc/index.htm)).

First published in 1999, the 'EU Annual Report on Human Rights' - prepared by the Presidency, the Commission and the Council Secretariat - can be found on 'The EU's Human rights & Democratisation Policy' pages of the Commission's External Relations website. A 'Reference Documents' page gives access to the reports and to related documents (see [ec.europa.eu/external\\_relations/human\\_rights/doc](http://ec.europa.eu/external_relations/human_rights/doc)).

Details of the European Instrument for Democracy and Human Rights are on the

Commission's EuropeAid site at [ec.europa.eu/europeaid/projects/eidhr](http://ec.europa.eu/europeaid/projects/eidhr)

The European Parliament has a page which divides EU interests in human rights into 'inside' and 'outside' the Union. Although a little confusing, 'Human Rights - Fundamental Rights' ([www.europarl.europa.eu/compar/human\\_rights](http://www.europarl.europa.eu/compar/human_rights)) does have the merit of highlighting the EP's Subcommittee on Human Rights and also the Human Rights Unit of Parliament's DG for External Policies.

(The 2005 edition of the 'EU Annual Report on Human Rights' states that "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 Hélène Flautre (Greens/ALE), has developed into a focal point of human rights questions in the Parliament.")

Section 2.1.0 of the 'European Parliament Fact Sheets' deals with 'Respect for fundamental rights in the EU'. It can be accessed via [www.europarl.europa.eu/facts\\_2004](http://www.europarl.europa.eu/facts_2004).

The website of the European Union Agency for Fundamental Rights is at [www.fra.europa.eu](http://www.fra.europa.eu). There are 'Publications' and 'Documentation' sections, but they currently reflect the narrower interests of the Agency's predecessor, the European Monitoring Centre on Racism and Xenophobia (EUMC).

The 'Human Rights' section of the 'Activities of the European Union' pages (SCADPlus) offers a short introduction, and also provides more

substantial background under the headings 'Fundamental rights within the European Union' and 'Human rights in Third Countries'. The 'Introduction' to the former includes a list of specific rights recognised by the European Court of Justice in its judgements. The rights and cases include: human dignity (Casagrande, 1974), equal treatment (Klößner-Werke AG, 1962) and freedom of association (Gewerkschaftsbund, Massa et al, 1974). The section can be found direct at [europa.eu/scadplus/leg/en/s20001.htm](http://europa.eu/scadplus/leg/en/s20001.htm) or via [europa.eu/scadplus](http://europa.eu/scadplus). ■