



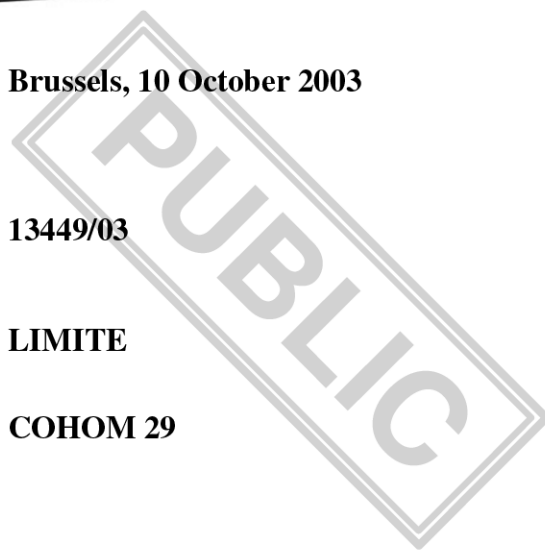
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## **PREFACE**

It is with great pleasure that I introduce the fifth Annual Report on Human Rights of the European Union. On the occasion of the presentation of this report, I first of all wish to express once more our deep sadness following the death of Mr. Sergio Vieira de Mello, the United Nations High Commissioner for Human Rights, who was killed in Baghdad on 19 August 2003 while working for the respect of human rights. Mr. Vieira De Mello dedicated his life to the cause of human rights, working in the interests of everyone under difficult conditions and in a spirit of sacrifice. It is our belief that sustained and unwavering commitment to the respect and the protection of human rights and fundamental freedoms in all parts of the world is the best way to honour the legacy of Mr. Vieira De Mello.

The Annual Report, which is the result of a joint effort by the fifteen Member States, supported by the Commission and the Council Secretariat, aims to present how the principles of democracy, liberty, the rule of law and respect for fundamental freedoms translate into the internal and external human rights policies, positions and actions of the EU. In this respect, this year's report contains a more complete and articulated section devoted to human rights within the Union itself, whilst also giving a comprehensive overview of the full range of instruments at the EU's disposal to advance human rights in its external relations. In addition, it further evaluates progress made in the achievement of its priority objectives.

The Annual Report forms part of the general efforts to work towards the objective of greater transparency and a strengthened dialogue with civil society at large. The EU thus aims to strengthen its citizens' involvement in the protection and promotion of human rights and to broaden the discussion on the EU's human rights agenda. Therefore, the report not only serves as a source of information, but also represents a starting point for reflection of ways and means to enhance the coherence and effectiveness of the EU's human rights policy.

Respect for human rights can never be taken for granted. The discussion on the EU's human rights agenda is necessarily an ongoing exercise and the report shows that much work still remains to be done. I hope you will join me in building on the accomplishments reflected in the document so as to bring the EU closer to its main objective: raising the level of human rights protection around the world.

**Franco Frattini**  
**Minister of Foreign Affairs of Italy**  
**President of the Council of the European Union**

## 1. INTRODUCTION

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

The purpose of this report is twofold. First, it aims to present how the abovementioned set of common values translates into the practical human rights policies and positions of the EU. Second, the factual information presented in the report serves as a basis for evaluation and identification of areas for improvement of the EU human rights policy.

The report is the fifth of its kind and covers the period from 1 July 2002 to 30 June 2003. It uses the Conclusions of the General Affairs and External Relations Council (GAERC) on human rights and democratisation in third countries of 10 December 2002 as a framework for analysis of both internal and external human rights policies and their implementation.

Within the reporting period there have been a number of positive developments in the field of human rights, including the entry into force of the Rome Statute of the International Criminal Court (ICC) and subsequent steps to make the ICC fully operational, the adoption of the Optional Protocol to the UN Convention against Torture, and the entry into force of Protocol 13 to the European Convention on Human Rights on the abolition of the death penalty in all circumstances. These examples are but a few of the positive developments which the EU has actively contributed to achieving. Other examples are presented in the following chapters.

Meanwhile, however, the advancement of human rights remained difficult both on the ground and at the institutional level. The international context featured the crisis in Iraq and the Middle East, as well as armed conflict and widespread violence in a large number of countries. The deterioration of the human rights situation in various countries also continued to be a major concern for the EU. At the 59th Commission on Human Rights a North/South divide remained evident, even though the atmosphere was less confrontational than in previous years.

Despite its active role in the field of human rights, the EU is not always able to counter such negative developments. This means that continued efforts are necessary to improve the EU's human rights policy with a view to realising its main objective: raising the level of human rights protection around the world. First, this requires simultaneous attention for both the internal and external dimension of the EU's human rights policy. Second, it is important to fine-tune a multidimensional approach to international action, which takes into consideration all instruments at the EU's disposal, such as, *inter alia*, demarches, political pressure, dialogue with interested countries, technical assistance, country resolutions and when necessary sanctions. The following chapters provide the background information on both human rights within the EU and actions in international affairs, necessary for a broad-based discussion on all these aspects of the EU's human rights policy.

## 2. EU POLICIES IN THE FIELD OF HUMAN RIGHTS

### 2.1 Legal bases

The European Union is a community of shared values, founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law. The European Union seeks to respect and promote universal human rights as laid down in the Universal Declaration of Human Rights of 1948 and the subsequent International Covenants on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights of 1966. Besides these and other UN human rights instruments, the human rights policy and positions of the EU are also based on regional human rights instruments, such as the European Convention on Human Rights of 1950. The EU adheres to the principles of universality, interdependence and indivisibility of all human rights and democratic freedoms, which these international legal instruments enshrine – as reaffirmed at the 1993 World Conference on Human Rights held in Vienna.

The protection and the promotion of human rights not only constitute defining principles of the EU, but also form part of Community legislation. They were explicitly incorporated into and stated as common European objectives in the Treaty on European Union (TEU), which entered into force in November 1993. This step represented a significant strengthening of human rights as a priority issue for the EU in its internal as well as external policies.

With regard to internal policies, Article 2 of the TEU stipulates that the objective of the Union is to *"strengthen the protection of the rights and interests of the nationals of its Member States"* and to *"maintain and develop the Union as an area of freedom, security and justice"*. Additionally, Article 6(2) states that the Union is bound to respect *"fundamental rights, as guaranteed by the (...) Convention [of the Council of Europe] for the Protection of Human Rights and Fundamental Freedoms (...), and as they result from the constitutional conditions common to the Member States, as general principles of Community law"*. The latter article is applied by the European Court of Justice with regard to actions by the institutions of the EU insofar as the Court has jurisdiction over these issues. In addition, Article 7 of the TEU introduces a mechanism designed to punish serious and persistent violations of human rights by Member States of the European Union in the form of a suspension of rights enshrined in the TEU. This mechanism was further strengthened by the Treaty of Nice, concluded in December 2000.

On the external policies of the EU, Article 11 of the TEU states that efforts to *"develop and consolidate democracy and the rule of law, and respect for human rights and fundamental freedoms"* are among the objectives of the Common Foreign and Security Policy of the EU. Article 177 of the Treaty establishing the European Community requires that Community development co-operation policy also contributes to the achievement of these objectives.

The Charter of Fundamental Rights of the EU also deserves mention in this context. The Charter was proclaimed by the EU institutions – the Council, the Commission and the Parliament – in December 2000, and aims at strengthening the protection of fundamental rights in the light of changes in society, social progress and technological developments by making the rights more visible in an EU instrument.

The Charter will be further discussed in paragraph 3.2. In that section an update will also be given of the latest developments in the context of the Convention, which concluded its work in June 2003.

## **2.2 Main players**

The importance attached to the promotion and protection of human rights and fundamental freedoms by the European Union is reflected in the fact that most bodies and institutions within the EU are involved in human rights issues. The European Council, the Council and the Commission are the main actors in policy-making, decision-making and implementation. It is, therefore, the human rights activities of these actors that are most widely presented in this report. However, the European Parliament, the European Court of Justice and the European Ombudsman also play significant roles in regard to promoting and protecting human rights, both within and outside the EU.

Protection and promotion of human rights within the Member States of the Union are primarily a concern of the states themselves with due regard to their own judicial systems and international obligations. The Member States are parties to a number of international instruments of legally binding as well as political character, and are therefore obliged to account for their actions within the field of human rights to a number of international organisations, including to the Council of Europe (CoE), the Organisation for Security and Cooperation in Europe (OSCE) and the United Nations (UN). There are, however, certain specific human rights issues arising within the EU, such as discrimination, and racism and xenophobia, which include aspects relating to the competence of the European Community. More information is given on those in Chapter 3 below.

The respective roles of the EU institutions in the promotion and protection of human rights in the EU's external relations vary according to the three "pillars" of the EU, the European Community, Common Foreign and Security Policy (CFSP), and Justice and Home Affairs (JHA). The roles of the Commission, the European Parliament and the Court of Justice are stronger when Community matters are involved. Primary responsibility for EU policies on CFSP and JHA lies with Member States. The Commission and the European Parliament, however, are fully associated with EU action.

### **The European Council**

The European Council brings together the Heads of State or Government of the Member States and the President of the European Commission. Members of the European Council are accompanied by the Foreign Affairs Ministers and by the European Commissioner responsible for external relations. The decisions taken at the European Council meetings provide a major impetus to the definition of the general political guidelines of the European Union.

### **The Council of the European Union**

The Council of the European Union is composed of ministerial representatives of each Member State. Human rights issues arising in the EU's external relations through the CFSP or through the European Community's trade or development policies are dealt with by Foreign Affairs Ministers in the General Affairs and External Relations Council. The Justice and Home Affairs Ministers are responsible in the Justice and Home Affairs Council for dealing with third country-related human rights issues arising within their sphere of competence.

Under the Treaty on European Union, the Council has to take the necessary decisions concerning the formulation and implementation of the CFSP. To that end it adopts the common positions, joint actions and decisions referred to in Chapter 4.

With the entry into force of the Amsterdam Treaty in May 1999, several spheres of cooperation in Justice and Home Affairs were transferred to the first pillar, where the Commission has a greater role to play, although the rules on decision-making in Justice and Home Affairs matters in the first pillar remain slightly different. The areas of cooperation concerned by this transfer relate to visas, asylum, immigration and cooperation in civil law. Provisions regulating police cooperation and judicial cooperation in criminal matters remain in the third pillar, where the Council of Ministers may adopt joint positions, framework decisions, decisions or conventions in response to an initiative by a Member State or the Commission.

The Council's work is prepared by the Permanent Representatives Committee (COREPER), consisting of the Permanent Representatives of the member states in Brussels and other deputies. This Committee also oversees and coordinates the work of the committees and working parties, made up of civil servants from the member states, who prepare the matters to be discussed by COREPER and the Council.

The Political and Security Committee (PSC) monitors the international situation in the areas covered by the Common Foreign and Security Policy and contributes to the definition of policies, including on human rights, by delivering opinions to the Council, either at the latter's request or on its own initiative. It also monitors the implementation of agreed policies, without prejudice to the responsibility of the Presidency and the Commission. Moreover, in the event of a crisis, the PSC plays a central role in defining the Union's response to that crisis.

At working party level within the Council, the main instance responsible for dealing with human rights issues in the EU's external relations is the thematic Working Party on Human Rights (COHOM). This Working Party is composed, as a general rule, of the heads of human rights divisions of the Ministries of Foreign Affairs of each of the Member States, as well as a representative of the Commission. The Council's geographical working groups are responsible, however, for specific human rights cases arising within their respective regions, and the OSCE Working Party deals with both human rights policy and cases within the OSCE process. There are also a number of working parties preparing the work of the Justice and Home Affairs Council in which third country human rights issues may be discussed, such as the working parties on asylum, on migration, and on cooperation in criminal matters.



## **The Commission**

Under the Treaty on European Union, the Commission is fully associated with the work carried out under the CFSP and this applies to the promotion of human rights as a key objective of that policy. The Commission accordingly takes part in EU deliberations on human rights matters within COHOM and contributes to the formulation of EU positions in international fora dealing with human rights, such as the UN Commission on Human Rights.

Where the issues dealt with include elements relating to Community matters the Commission has a particularly important role to play. In addition, it may refer to the Council any question relating to the CFSP and can submit proposals to the Council in this field. The Commission is also part of the troika which represents the EU externally, for example in conducting dialogue and démarches on human rights issues to third countries, and manages the support for human rights projects under the EU budget (see section 4.1).

## **The European Parliament**

The European Parliament is an important participant in the formulation and implementation of EU human rights policies. Throughout the years, the European Parliament has taken the lead in keeping human rights high on the EU agenda. This is in large part due to the strong interest traditionally taken in human rights matters by the European Parliament and many of its individual members. The powers of the European Parliament have gradually been increased, notably through the entry into force of the Maastricht Treaty and the Amsterdam Treaty.

The European Parliament has an important role to play in treaty-making processes with third countries because of the need for its assent to most international agreements. It undertakes human rights missions to countries outside the EU, draws up reports on specific human rights situations as well as thematic issues, and regularly sends a delegation to sessions of the UN Commission on Human Rights in Geneva. In addition, the Parliament also adopts resolutions, issues declarations and submits questions to the Council and the Commission on human rights issues. Moreover, the Parliament publishes an Annual Report on human rights in the world and the European Union's human rights policy.<sup>1</sup>

Each year the Parliament awards an individual or organisation the Sakharov prize for freedom of thought. The prize for the year 2002 was awarded to Mr Oswaldo Payà, initiator of the "Varela Project", for his work towards creating an alternative, non-violent democratic movement in Cuba. The Varela Project calls for a referendum on open elections, freedom of speech, freedom for political prisoners, and free enterprise, and has already attracted support from more than 100 organisations in Cuba and tens of thousands of individual signatures.

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<sup>1</sup> The European Parliament's Annual Report on human rights in the world in 2002 and the European Union's human rights policy can be accessed at: <http://www.europarl.eu.int/>.

## **The European Court of Justice**

The European Court of Justice, as the judicial institution of the EU, ensures respect for Community law in applying the Treaties. Community law is directly applicable in all Member States. The Court ensures that Community law is interpreted and applied equally throughout the EU. The Court has jurisdiction to hear disputes to which the Member States, the Community institutions, private undertakings and individuals may be parties.

Since the establishment of the Court in 1952 close to 9 000 cases have been brought before it. To cope with the increased case load and to deal with cases more rapidly a Court of First Instance was set up by the Council in 1989. The Court has jurisdiction to hear direct actions and therefore also cases brought forward by individuals, including cases on human rights issues. The case law of the Court has gradually developed with due reference to the constitutional traditions common to the Member States and to international treaties for the protection of human rights on which Member States have collaborated or which they have signed and ratified. The Court has stated that the European Convention for the Protection of Human Rights and Fundamental Freedoms has special significance as a point of reference. The rulings given by the Court are binding and have confirmed that the obligation to respect fundamental rights applies both to EU institutions and to Member States in the area of Community law.

Although the Treaty establishing the European Community originally contained no specific reference to human rights, the Court of Justice has consistently held that fundamental rights form an integral part of the Community legal order, thereby ensuring that human rights are fully taken into account in the administration of justice. Now, the Court's case law is reflected in Article 6 of the TEU, which stipulates that liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law are founding principles of the EU.<sup>1</sup>

## **The European Ombudsman**

The principal task of the European Ombudsman is to examine alleged cases of maladministration in the actions of Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance when acting in their judicial role. These cases are generally brought to the attention of the Ombudsman through complaints from European citizens. The Ombudsman can also undertake investigations on his own initiative. A number of these complaints and investigations relate to questions of human rights, particularly freedom of expression and non-discrimination. The European Ombudsman publishes an Annual Report, which also addresses the human rights effort of the institutions of the European Union. The most recent Annual Report by the European Ombudsman was submitted in February 2003.<sup>2</sup>

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<sup>1</sup> Further information about the European Court of Justice and the Court of First Instance is available at: [www.curia.eu.int/en/index.htm](http://www.curia.eu.int/en/index.htm).

<sup>2</sup> The full report can be accessed at: <http://www.europarl.eu.int/ombudsman/home/en/default.htm>.

### 2.3 Principles and priorities

On the basis of the legal foundations and competencies outlined above, the Council sets out the principles and priorities of the EU human rights policy. In its conclusions on human rights and democratisation in third countries of 10 December 2002, the Council reaffirmed its commitment to:

- coherence and consistency between Community action and the Common Foreign and Security Policy (CFSP) as well as development policy through close cooperation and coordination between its competent bodies and with the Commission;
- mainstreaming of human rights and democratisation into EU policies and actions;
- openness of the EU's human rights and democratisation policy through a strengthened dialogue with the European Parliament and civil society;
- regular identification and review of priority actions in the implementation of its human rights and democratisation policy.<sup>1</sup>

These objectives had been first laid down in the Council conclusions on human rights and democratisation of 25 June 2001<sup>2</sup> and are based on the Commission communication on the European Union's role in promoting human rights and democratisation in third countries of 8 May 2001. In the paragraphs below necessary background information will first be presented relevant to the issues of mainstreaming and openness, while the follow-up given to all four priority areas will be summed up in the concluding remarks, on the basis of the overview of human rights within the EU and action in international affairs in chapter 3 and 4.

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<sup>1</sup> Doc. 15138/02; see also: [http://europa.eu.int/comm/external\\_relations/human\\_rights/gac.htm](http://europa.eu.int/comm/external_relations/human_rights/gac.htm). See also Doc. 6429/03, Progress report of EU external action.

<sup>2</sup> Document number 9547/01.

## **2.4 Mainstreaming**

Mainstreaming is the process of integrating human rights into all aspects of EU policy decision-making and implementation, including external assistance. As a key priority of the EU human rights policy this process concerns a number of different aspects.

### **● Dialogue with third countries**

Political dialogue is a valuable instrument to implement CFSP. The EU has committed itself to raising human rights issues in all meetings with third countries at all levels.<sup>1</sup> In this context, there are also dedicated human rights dialogues with certain countries, including a new dialogue with Iran (see section 4.1.3). The framework of political dialogue is supported by the European Community's external assistance programmes on human rights and good governance (see section 4.1.6).

### **● Trade and cooperation**

Community agreements with third countries, including trade and cooperation agreements, contain a clause stipulating that respect for human rights is an «essential element» of the accord. Such clauses serve to promote dialogue on human rights whilst carrying the possibility of punitive action where human rights are violated. The Cotonou Agreement with 77 African, Caribbean and Pacific countries entered into force on 1 April 2003 and contains the most recent version of the clause. An innovation introduced in 2003 was the establishment of a Subgroup on Governance and Human Rights under the Cooperation Agreement with Bangladesh, the first time that such a mechanism has been introduced in this context. The group provides an opportunity for in-depth exchanges on human rights issues between EU and Bangladeshi officials. The first meeting of this group took place on 19 May 2003 in Dhaka, Bangladesh (see section 4.1.5 on human rights clauses for further information).

Also with respect to trade, the granting of additional preferences or withdrawal of preferences in relation to human rights issues is factored into the Generalised System of Preferences. The basis for temporary withdrawal of general preferences was extended to cover the serious infringement of all ILO core conventions in 2001.

### **● External Assistance**

The EU budget allocates specific funding for human rights projects with NGOs and international organisations through the European Initiative for Democracy and Human Rights (EIDHR) (see section 4.1.6). However, extensive funds for projects dealing with human rights issues are also channelled through bilateral and regional support.

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<sup>1</sup> EU Guidelines on Human Rights Dialogues of 13 December 2001.

### **Other recent developments in mainstreaming**

The Commission's commitment to mainstreaming human rights is reflected in the Commission Communication of 21 May 2003 on «*Reinvigorating EU actions on human rights and democratisation with Mediterranean partners*»<sup>1</sup>, which pioneers a more developed approach to mainstreaming. In order to improve dialogue and make best use of instruments to promote democratisation and the promotion and protection of human rights, the Communication identifies ten areas for improvement, including the development of National and Regional Action Plans on Human Rights, a more operational focus on human rights in political dialogue and greater attention to human rights and democratisation issues in Country Strategy Papers and National Indicative Programmes.

### **Human Rights training**

It is important that staff working in all sectors have a good awareness of human rights issues. The Commission Communication of 8 May 2001 on human rights and democratisation highlighted the need to train Commission staff as a key element of mainstreaming human rights and democratisation throughout the policies and programmes of the EU. The Commission has started to implement 3 distinct levels of training:

- basic human rights training for External Relations staff, involving one day introductory courses for groups of 20 participants (two sessions were held on 13 March and 13 May 2003);
- advanced human rights training for Delegation staff (posted or in the context of pre-posting) and geographical desk officers (the first session was held on 11/12 June 2003 and involved 25 participants);
- specialised training on key human rights thematic issues for staff requiring expert knowledge of key areas; training commenced in May with courses on indigenous people and the rights of refugees and further courses will be provided before the end of the year.

Training for Delegation staff is particularly important given the rolling programme of deconcentration of the management of Commission assistance programmes to delegations across the world. Human rights macro-projects are set to be deconcentrated within the second semester of 2004. The programme for the deconcentration of human rights microprojects was approved in April 2003. The microprojects scheme is being extended to all 31 Delegations which are focus countries under the EIDHR (see section 4.1) and deconcentration to 23 Delegations is envisaged by the end of 2003.

Human Rights training is supplemented by regular meetings of the Commission Human Rights Inter-service group which draws together representatives from a wide range of Directorates-General, including DG External Relations, DG Trade, DG Development and DG Justice and Home Affairs in order to exchange information and best practice in the field of human rights.

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<sup>1</sup> COM(2003)294. The Commission communication can be accessed at:  
[http://europa.eu.int/comm/external\\_relations/human\\_rights/](http://europa.eu.int/comm/external_relations/human_rights/).

The Council Secretariat also convenes a Human Rights Action Group which brings together officials concerned with human rights in external relations, including those with geographical responsibilities.

#### ● Evaluation

The Council will annually review the progress made in implementing measures to promote mainstreaming. These reviews will be conducted on the basis of a progress report elaborated by COHOM. The first review will take place towards the end of 2003.

### **2.5 Transparency and Dialogue with Civil Society**

The present report forms part of the general efforts to work towards the objective of a strengthened dialogue with the European Parliament and civil society. Initiatives to enhance the level of transparency of EU actions on human rights and democracy include briefings, exchanges of views and informal meetings between the Presidency, Members of the European Parliament and NGOs, for example in relation to the United Nations Commission on Human Rights.

Within the reporting period, the members of COHOM had several meetings with representatives of the main NGOs to discuss preparations for the 59<sup>th</sup> Commission on Human Rights. The Greek Presidency further continued the practice established under the Danish Presidency of holding debriefing meetings with the main NGOs prior to and after COHOM meetings. In June 2003 the members of COHOM also discussed a number of aspects of EU human rights policy with Mr. Bob van den Bos, a member of the European Parliament's Foreign Affairs Committee and Rapporteur on the EP's Annual Report. In addition, the Council and the Commission have sought to broaden access to information on human rights policy making and implementation on their respective websites.

As further evidence of its commitment to developing and strengthening relations with civil society, efforts have been made to render the EU Human Rights Discussion Forum – an important discussion platform for representatives from NGOs, European institutions, Governments and academic circles – more effective and informative. The Danish Presidency and the European Commission jointly organised a Human Rights Forum in Copenhagen on 20 and 21 December 2002. The Forum focused on the following four specific themes:

1. Human rights clauses and measures in cooperation agreements with third countries
2. EU guidelines on death penalty and torture: Evaluation and steps ahead
3. Transparency in EU human rights policy
4. Cooperation with third countries: Policies relating to political means and external assistance programmes

It was attended by more than 150 participants from the European Commission, the European Parliament, EU Member States, as well as civil society, national human rights institutions, international organisation and academia. In addition, representatives from associated countries participated as did a number of third country representatives. The Forum produced a wide range of specific recommendations that will contribute to the further elaboration of EU policies and programmes.<sup>1</sup>

Meanwhile, in addition to playing an important role in policy making, NGOs are also essential implementing partners in the context of the EU's external assistance programmes, including the EIDHR.<sup>2</sup> Major NGOs also convene the Human Rights Contact Group meeting in the European Parliament, which brings together key speakers from the EU institutions, Member States and NGOs to address human rights' issues.

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<sup>1</sup> A full report can be accessed at: [http://europa.eu.int/comm/external\\_relations/human\\_rights/](http://europa.eu.int/comm/external_relations/human_rights/).

<sup>2</sup> In July 2003 the European Commission organised a Seminar in Brussels, along the lines of a Forum, to discuss the future strategic direction and programming of the EIDHR. The recommendations of this Seminar will be taken into account in the programming of this initiative for 2004 and beyond. The event also addressed the key issues of civil society participation in policy making and the best means of ensuring that human rights concerns are properly taken into account in all aspects of external relations/assistance. (see <http://www.europa.eu.int/comm/commissioners/patten/speeches/index.htm> for intervention by Commissioner Patten). In addition to representatives of EU-based NGOs, more than a dozen human rights experts from civil society in all regions of the world were also invited and provided valuable first hand testimony on the issues that they would like the EU to tackle in the framework of its human rights' policies and initiatives.

### 3. HUMAN RIGHTS WITHIN THE EUROPEAN UNION

#### 3.1 Thematic issues of particular importance

This section describes specific human rights issues arising within the European Union and covers relevant Community legislation as well as various implementation activities, including funding for specific information and assistance programmes. In this context, it is worth noting the establishment by the European Commission in September 2002 of a network of experts on fundamental rights aimed at improving information and analysis as regards the situation in each of the Member States of the EU. The European Parliament had recommended the creation of this network both in its report on the situation of fundamental rights in the EU in 2000 (2000/2231 (INI)) and in its Resolution of 5<sup>th</sup> July 2001. The network is mandated to report on the situation of fundamental rights in the EU and assist the development of EU policy in this respect.

The network has agreed to rely on the use of three instruments in the discharge of its mandate: an Annual Report on the situation of fundamental rights within the European Union presented in March; thematic observations on specific questions and a report on the implementation of certain rights, freedoms or principles of the Charter of Fundamental Rights. The network's first Annual report to the Commission of March 2003<sup>1</sup> analyses the implementation of the provisions of each article in the Charter of Fundamental Rights – including questions related to many of the thematic issues dealt with in this section of the Annual Report - with an overview of recent developments in EU Member States. The first Thematic Comment on the *“Balance between freedom and security in the response by the EU and its Member States to the Terrorist Threats”* was also finalised in March 2003. It should be emphasised that these reports do not necessarily reflect the views of the Commission or Member States but do provide a useful resource to assist the development of EU policy in this field.

##### 3.1.1 Human rights and terrorism

In the aftermath of the terrorist attacks of September 11<sup>th</sup>, the European Council, at its extraordinary meeting on 21 September 2001, put terrorism at the top of its agenda and approved the “Action Plan to combat terrorism”. For the first time, the EU developed a coordinated, coherent and cross-pillar approach to all its policies and measures to fight terrorism.

The European Council stated that “terrorism is a challenge to the world and to Europe”, and that the fight against terrorism will “more than ever, be a priority objective of the European Union”. However, it added that the commitment to fight terrorism will go hand in hand with “respect for the fundamental freedoms which form the basis of our civilisation”.

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<sup>1</sup> The Comment is available at: [http://europa.eu.int/comm/justice\\_home/fsj/rights/network/obs\\_thematique\\_en.pdf](http://europa.eu.int/comm/justice_home/fsj/rights/network/obs_thematique_en.pdf).)



The EU has since approved a Framework Decision on combating terrorism, a European Union Common List of Terrorists, as well as a Framework Decision on the European Arrest Warrant and the surrender procedures between Member States. The Framework Decision on combating terrorism (13th June 2002) offers for the first time a common definition at EU level of “terrorist offence” and of persons and organisations responsible for the offences, aiming at a common minimum harmonisation of Member States' criminal law in this respect.

Its Preamble states that:

- (1) “The European Union is founded on the universal values of human dignity, liberty, equality and solidarity, the respect for human rights and fundamental freedoms. It is based on the principle of democracy and the principle of the rule of law, principles which are common to the Member States.
- (2) Terrorism constitutes one of the most serious violations of those principles. The La Gomera Declaration adopted at the informal Council meeting on 14 October 1995 affirmed that terrorism constitutes a threat to democracy, to the free exercise of human rights and to economic and social development.”

Respect for human rights and fundamental freedoms in the adoption and implementation of anti-terrorist policies and measures nevertheless remains a basic principle of all Community actions, as follows:

- no Decision of the European Union will have the effect of modifying the obligation to respect fundamental rights and fundamental legal principles as enshrined in Art. 6 of the TEU (Art. 1, paragraph 2 Framework Decision on combating terrorism; Art. 1, paragraph 3 Framework Decision on the European arrest warrant);
- the EU fully recognises the existence of a list of rights and freedoms that shall not be infringed under any circumstances: the right to life, freedom from torture and from cruel, inhuman or degrading treatment or punishment; freedom of thought, expression, conscience and religion; the right to strike; freedom of assembly and association; the right not to be held guilty of criminal offences not punishable at the time of commission; the right to form and join a trade union, among others;
- decisions by the EU organs are subjected to judicial control, both at EU level and at national level. As the Framework Decision on the European arrest warrant states in recital 12 of its Preamble, the Framework Decision does not prevent a Member State from applying its constitutional rules relating to due process;
- the Framework Decision on combating terrorism pays special attention to the victims of terrorist offences and the need to adopt specific measures to protect and assist them;
- no person shall be removed, expelled or extradited to a State where there is a serious risk of being subjected to the death penalty, torture or other inhuman or degrading treatment or punishment;
- the protection of personal data will be fully respected, according to the Council of Europe Convention of 28th January 1981 for the protection of individuals with regards to automatic processing of personal data.

### **3.1.2 Racism and xenophobia**

The European Union is firmly committed to combating racism, racial discrimination and xenophobia in all their forms. Article 13 of the Treaty establishing the European Community and Article 29 of the Treaty on European Union specifically mention the fight against racism and discrimination, while the Charter of Fundamental Rights of the European Union reaffirms the prohibition on discrimination on grounds of sex, race, colour, social or ethnic origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation.

After the adoption of the Amsterdam Treaty, which provided the European Community with new powers to tackle discrimination, a package of measures has been put into place to combat discrimination, comprising inter alia two Directives and a Community Action Programme (2001-2006).

First, the Racial Equality Directive (2000/43/EC) prohibits racial and ethnic discrimination in the fields of employment, education, social security and healthcare, access to goods and services and housing; contains definitions of direct and indirect discrimination, harassment and victimisation; gives victims of discrimination the right to complain through a judicial or administrative procedure, associated with appropriate penalties for those who discriminate; places the burden of proof on the respondent in civil and administrative cases; and provides for the establishment in each Member State of an organisation to promote equal treatment (inter alia through the elaboration of independent reports and recommendations) and provide independent assistance to victims of racial discrimination. It further recognises that implementation measures should promote equality between women and men, since women are often victims of multiple discrimination. The deadline for transposition of this Directive into the national legislation of Member States expired on 19<sup>th</sup> July 2003.

Second, the Employment Equality Directive (2000/78/EC) implements the principle of equal treatment in the areas of employment and training irrespective of religion or belief, disability, age and sexual orientation. It must be transposed into the legislation of Member States by 2 December 2003. Countries that have applied to join the EU must also transpose both Directives before accession.

Third, the EU's legislative framework is backed up by the Community Action Programme to combat discrimination (2001-2006, with a budget of EUR 100 million), which aims at improving the understanding of issues related to discrimination, developing the capacity to tackle discrimination effectively and promoting the values underlying the fight against discrimination. Under this programme, a number of initiatives have been supported which directly impact on the fight against racism and xenophobia.

The programme is currently supporting a number of studies and data collection activities on discrimination-related issues – including a study on national bodies to promote equality and fight discrimination and another on the anti-discrimination legislation in candidate countries – as well as transnational projects bringing together a wide range of actors involved in the fight against discrimination. It supports 27 transnational partnerships exchanging experience and good practice in fighting discrimination, as well as the running costs of 4 European umbrella networks of non-governmental organisations representing and defending the rights of people exposed to discrimination (including the European Network against Racism), and 5 smaller European-level organisations.

On 16 June 2003, the Commission launched an information campaign (including a new website) with the slogan "For Diversity. Against Discrimination." to raise awareness of discrimination and to provide information about the new EU rules aimed at combating discrimination which are due to come into force in 2003. Other awareness-raising activities have included a European Conference in Copenhagen in November 2002.

The European Union's Monitoring Centre on Racism and Xenophobia (EUMC), based in Vienna, provides additional support. Its research is essential to a proper understanding of the problems of racism and to the formulation of policies and practices to promote equality and fight discrimination.

The EUMC and the European Commission organised a series of round tables on anti-Semitism and Islamophobia in late 2002 and early 2003.

Fourth, in November 2001, the European Commission adopted a proposal for a Framework Decision on combating racism and xenophobia which aims to establish an EU-wide approximation of penal laws on racist and xenophobic offences and to facilitate judicial cooperation between Member States. This text is a follow-up of the Joint Action concerning action to combat racism and xenophobia adopted by the Council of Ministers on 15 July 1996 on the basis of Article K3 of the Treaty on European Union. Under this instrument, Member States were asked to ensure that a number of racist and xenophobic behaviours listed therein were punishable as criminal offences or, failing that, and pending the adoption of the necessary provisions, to derogate from the principle of double criminality for such behaviour.

Finally, other EU policies and programmes also continue to contribute to the fight against racism. Education, training and youth programmes aim to promote intercultural learning and tolerance by bringing together young people from different backgrounds.

The recently adopted Commission communication on immigration, integration and employment adopted on 3 June 2003 emphasises the need to prevent racism and discrimination as part of a holistic approach towards integration.

Moreover, in its general approach against crime the EU attaches special attention to the protection of and assistance to victims of crime, including racist crime. The Council adopted on 15 March 2001 a Framework Decision on the standing of victims in criminal proceedings and the Commission adopted on 16 October 2002 a proposal for a Council Directive on compensation to crime victims. Through the AGIS programme (2003-2007) the Commission co-finances actions on police and judicial cooperation in criminal matters covering, amongst other issues, racism and xenophobia and assistance to victims.

### **3.1.3 Asylum and migration**

The twelve-month period from July 2002 has continued to be marked by intense activity in the areas of asylum and immigration. The European Council held in Seville in June 2002 set deadlines for reaching agreement on a number of legislative instruments in this field. While some progress can be noted, the Council must still agree on a number of key instruments in the area, as underlined in the May 2003 version of the Scoreboard on the progress towards an area of freedom, security and justice published by the Commission.<sup>1</sup> In its proposals and actions in immigration and asylum, notably those based on Article 63 of the TEC, the Commission has continued to pay particular attention to humanitarian aspects and to ensuring full respect for human rights-based principles enshrined in the European Convention on Human Rights, the EU Charter on Fundamental Rights and other international norms.

In June 2003, the Convention on the future of Europe adopted the text of a draft Constitution with ambitious provisions in the field of asylum and migration policies.

#### **Cooperation with third countries of origin and transit**

Cooperation with third countries in the area of migration has received much attention in the reporting period.

- On 18 November 2002 the Council adopted conclusions calling for intensified cooperation, in the first instance, with countries with which there is existing cooperation capable of forming a basis for further progress: Albania, China, the Federal Republic of Yugoslavia, Morocco, Russia, Tunisia and Ukraine. The Council also considers it essential to initiate cooperation with Libya and further strengthen cooperation with the EU candidate state, Turkey. The Commission will respond positively to the Council's invitation to report on progress on this intensification process.
- On 3 December 2002 the Commission presented a communication on integrating migration issues into the Union's relations with third countries. In this document the Commission presented the comprehensive efforts that will be required to address migration issues in a coherent and efficient way at EU level, using all appropriate EU external relations instruments.

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<sup>1</sup> COM(2003) 291 final of 22.05.2003

- On 19 May 2003 the Council adopted conclusions on the relationship between migration and development, one of the subjects specifically discussed in the Commission's communication of 3 December. The Council presented a number of key principles on which action in these areas should be based and identified some concrete areas in which migration-related assistance in relation to third countries should be focused. The Commission was invited to submit, before the end of 2004, further proposals on subjects such as remittances as a potential for development, regulating demand and supply on the labour market through temporary residence-work permits and better integration of legal migrants living and working in the EU.
- The Establishment of a Common European Asylum System

During the period under review, the Council has adopted:

- a Directive on reception conditions for asylum seekers <sup>1</sup> (in January 2003);
- a Regulation on the criteria and mechanisms for determining which Member State is responsible for the examination of an asylum application as a successor instrument to the Dublin Convention <sup>2</sup> (in February 2003).

Discussions in the Council are being pursued on the following texts.

- a Directive on minimum standards on asylum procedures, on the basis of a modified proposal adopted by the Commission in June 2002;
- a Directive on the qualification of nationals of third countries as refugees and for persons who otherwise need international protection, with international human rights and standards as a critical background.

The Council has underlined the need to finalise the negotiations on the remaining asylum legislation before the end of 2003.

In all the asylum proposals and instruments adopted, special attention has been devoted to children and to gender issues.

In March 2003, the Commission published the second report on the common asylum policy, <sup>3</sup> focusing on the relationship between the Common European Asylum System and the multilateral Agenda for Protection, adopted by the UNHCR's Executive Committee in October 2002. EU standard setting within the field of asylum is in fact an area that is fundamentally linked to the work of UNHCR and the Agenda for Protection. In accordance with the declaration (No.18) on Article 63 (X Article 73 K) (3) (A) of the Treaty establishing the European Community, the EU shall consult with the UNHCR in questions relating to the asylum policy.

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<sup>1</sup> OJ L 31 of 6.2.2003.

<sup>2</sup> OJ L 50 of 25.2.2003.

<sup>3</sup> COM(2003)152 of 26.3.2003.

The report on the common asylum policy was followed, on the basis of an invitation by the Spring European Council, by a communication<sup>1</sup> of 3 June 2003, on the need for developing new approaches to modernise asylum systems, with a view to making them more accessible, equitable and managed, while respecting human rights obligations and standards. At the Thessaloniki European Council, the Commission was invited to explore all parameters in order to ensure more orderly and managed entry into the EU of persons in need of international protection and to examine ways and means of enhancing the protection capacity of regions of origin.

### **Fair Treatment of Third-Country Nationals**

In the field of legal immigration, the Council reached political agreement, respectively in February 2003 and June 2003, on:

- a Directive on the right to family reunification and
- a Directive on long-term residence status for third-country nationals.

Discussions in the Council are being pursued on the proposal for a Directive on the conditions of entry and residence of third-country nationals for the purpose of paid employment and self-employed activities<sup>2</sup>.

The Commission adopted, in October 2002, a proposal for a Directive on the admission of third-country nationals for the purpose of studies, vocational training or voluntary service<sup>3</sup> and will present, before the end of 2003, a proposal for a Directive on the admission and stay of third country national researchers.

In June 2003 a communication from the Commission on immigration, integration and employment<sup>4</sup> proposed a series of guidelines and priority actions, where the fight against discrimination plays an important role. On that basis, the European Council in Thessaloniki adopted conclusions in which it was noted that integration policies should be understood as a continuous, two-way process based on mutual rights and corresponding obligations of legally residing third-country nationals and the host societies. In order to respond to the demographic and economic challenges, the European Council also stressed the need for exploring legal means for third-country nationals to migrate to the Union, taking into account the reception capacity of the Member States, within the framework of an enhanced cooperation with the countries of origin which will prove beneficial for both sides.

### **Management of Migration Flows**

In the course of 2002, the Council adopted three successive action plans, each time on the basis of communications from the Commission (on the return of illegal residents, on illegal immigration, and on integrated management of external borders). Together these form a comprehensive and coherent set of measures.

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<sup>1</sup> COM(2003)315 of 3.6.2003.

<sup>2</sup> COM(2001)386 of 11 July 2001.

<sup>3</sup> COM(2002)548 of 7 October.2002.

<sup>4</sup> COM(2003)336 of 3 June 2003.

In its communication of 3 June 2003 on the development of a common policy on illegal migration, smuggling and trafficking in human beings, external borders and the return of illegal migrants<sup>1</sup>, which was submitted in preparation for the European Council in Thessaloniki, the Commission highlighted the consistency of this evolving policy and created the basis for a monitoring process with the drafting of an annual report.

In its conclusion, the Thessaloníki European Council noted that the importance of JHA policies should also be reflected in a reinforcement of existing financial support and be translated into an enhanced effort of solidarity.

#### **3.1.4 Persons belonging to minorities**

The protection of persons belonging to minorities is covered by the non-discrimination clause in Article 13 of the Treaty establishing the European Community (see also section 3.1.2). The EU Charter of Fundamental Rights also contains a non-discrimination clause (Art. 21), as well as an obligation for the Union to respect cultural, religious and linguistic diversity (Art. 22).

Despite these provisions, concerns have been raised about the protection of persons belonging to minorities in the EU. As an example mention could be made of recent reports of the Council of Europe Commissioner for Human Rights, who has raised, for instance, issues related to Roma in the EU area and in the acceding countries in his reports. The situation of Roma is often one of discrimination and social exclusion. Another example are concerns related to anti-Islamic reactions within the EU after 11 September 2001 expressed by the EU Monitoring Centre on Racism and Xenophobia. Furthermore, Europe was shocked and saddened by certain anti-Semitic incidents in the EU in 2002. The EU strongly condemned those incidents and undertook a series of measures to protect the Jewish community and tackle the causes.

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

The Copenhagen criteria designed in 1993 for countries wishing to join the EU specifically highlight the protection of minorities. In this context, the PHARE programme funds projects that aim to improve the situation of Roma and other minorities in Central and Eastern European candidate countries. The experience gained from implementing the Copenhagen criteria over the years is a valuable asset for the enlarging Union in its efforts to ensure the protection of the human rights of persons belonging to minorities.

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<sup>1</sup> COM (2003) 323 of 3 June 2003.

### 3.1.5 Trafficking in human beings

Pursuant to Article 5(3) of the Charter of Fundamental Rights of the European Union, trafficking in human beings, as an obstacle to the full enjoyment of human rights, has been continuously addressed by EU institutions during the period covered by this report. In particular, new EU legislation has been adopted and entered into force, to underpin the EU's commitment to intensify efforts to prevent, punish and eliminate this abhorrent practice. The Brussels Declaration on Preventing and Combating Trafficking in Human Beings became another incentive for an intensive discussion at various levels.

On 19 July 2002, the Council – further to a legislative initiative of the Commission – adopted the Framework Decision on combating trafficking in human beings<sup>1</sup>. The Decision introduces a common definition of trafficking in human beings at EU level. It obliges Member States to penalise the acts covered by the definition and to establish effective, proportionate and dissuasive criminal penalties. In specific circumstances the maximum penalty has to be not less than eight years. Member States have to take the necessary measures to comply with the Framework Decision before August 2004.

Furthermore, on 15 October 2002, the Council reached political agreement on the Draft Framework Decision on combating the sexual exploitation of children and child pornography. The act will be adopted once parliamentary reservations of some Member States have been lifted. The Framework Decision will then provide for common definitions of the crimes concerned and – in aggravating circumstances – for criminal penalties of a maximum of at least 5 to 10 years' imprisonment.

From 18-20 September 2002, the European Conference on Preventing and Combating Trafficking in Human Beings – Global Challenge for the 21st Century took place in Brussels. The conference brought together participants from EU Member States, candidate countries, neighbouring countries such as Russia, the Ukraine and the NIS, as well as the USA, Canada, China, international organisations (IOs), inter-governmental organisations (IGOs), non governmental organisations (NGOs) and the institutions of the European Union. Initiated by the European Commission under the STOP II Programme, the Conference was organised by the International Organisation for Migration (IOM), in close cooperation with the European Parliament and the European Commission.

The Brussels Declaration is the final outcome of the Conference. It aims at further developing European and international cooperation, concrete measures, standards, best practices and mechanisms to prevent and combat trafficking in human beings. It received broad support from the participants.

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<sup>1</sup> OJ L 203, 1.8.2003, p. 1.



On 8 October 2002, the Council (Employment, Social Policy, Health and Consumer Affairs) of the European Union took note of the document. Furthermore, the Commission introduced the Declaration at working group level to Justice and Home Affairs representatives of the Member States and on 8 May 2003 the *Council (Justice, Home Affairs and Civil Protection)* adopted *conclusions on the Brussels Declaration*<sup>1</sup>. The document's general approach to the prevention and combating of trafficking in human beings has been welcomed. The Council also agreed to examine appropriate proposals made to implement specific items contained in the Declaration. Member States are urged to consider a number of items as political priorities.

The Commission, on 25 March 2003, decided to set up – as a consultative group – an *experts group on trafficking in human beings*<sup>2</sup> as recommended in the Brussels Declaration. The group will consist of 20 independent experts and assist the Commission with a view to launching further concrete proposals at European level. In particular, the group will submit a report to the Commission based on the recommendations of the Brussels Declaration. Meanwhile, the Commission has received proposals for membership from Member States, candidate countries and organisations active in combating trafficking in human beings and is about to appoint the members.

The Brussels Declaration was also the main basis for discussion during the workshops on trafficking in human beings in the framework of the *EU Forum for the Prevention of Organised Crime*. A first workshop focusing on the Declaration took place on 15 November 2002. Another one has been scheduled for 30 June 2003 and will concentrate on cooperation between law enforcement agencies and NGOs as this item has been addressed by a number of recommendations in the Declaration.

In 2002, the *STOP II Programme*<sup>3</sup> provided financial support for 16 projects aimed at combating trafficking in human beings and/or sexual exploitation. More than EUR 1,7 million has been devoted to 4 projects on trafficking in human beings, 7 projects on sexual exploitation of children and 5 projects covering both areas.

While the STOP II Programme expired at the end of 2002, the Council on 22 July 2002 adopted the *AGIS framework programme on police and judicial cooperation in criminal matters*<sup>4</sup>. AGIS has been established for the period from 1 January 2003 to 31 December 2007 and allocated EUR 65 million in order to replace STOP and the other previous funding programmes for the area of justice and home affairs under Title VI TEU.

With regard to third countries, trafficking in human beings has become a permanent agenda item for meetings at various levels. TACIS and CARDS are used to financially support projects on anti-trafficking projects in East and Southeast Europe. Furthermore, an action plan against trafficking in human beings has been elaborated in the context of the EU-Africa-Dialogue. Finally, the Council and the Commission are continuously in touch with international organisations such as the UN, the Council of Europe and the OSCE in order to coordinate ongoing activities aimed at combating human trafficking.

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<sup>1</sup> OJ C 137, 12.6.2003, p. 1.

<sup>2</sup> OJ L 79, 26.3.2003, p. 25.

<sup>3</sup> Council Decision of 28 June 2001 establishing a second phase of the programme of incentives, exchanges, training and cooperation for persons responsible for combating trade in human beings and the sexual exploitation of children (STOP II), OJ L 186, 7.7.2001, p. 7.

<sup>4</sup> OJ L 203, 1.8.2002, p. 5.

### **3.1.6 Rights of the child**

The promotion and protection of the rights of the child is an important part of the human rights policy of the EU. The growing significance of this issue is illustrated by the fact that the text of the draft Treaty establishing a Constitution for Europe, which was presented to the European Council in June 2003, lists the protection of children's rights as a specific objective of the European Union for the first time.

The Permanent Intergovernmental Group "l'Europe de l'Enfance", which is composed of ministers and high level officials holding responsibility for childhood policies in the Member States, meets to exchange strategies, viewpoints and best practices on children's issues in the context of EU policies and the UN Convention on the Rights of the Child. The Group will work for the introduction and mainstreaming of children's policies and the rights of the child in all policies of the Union.

As a follow-up to the UN General Assembly Special Session on Children of May 2002, the European Commission established a new sub-group on children's rights designed to provide a forum in the Commission for the exchange of information and best practice on children's rights. During the course of the past year, the group has been addressed by the UN Special Representative for Children and Armed Conflict, Mr Olara Otunnu, and representatives of UNICEF and Save the Children with respect to the Commission's approach to mainstreaming children's rights in policy and external assistance.

Two legislative developments with relevance to the rights of the child have taken place in the period under review: the Framework Decision on combating trafficking in human beings and the Draft Framework Decision on combating the sexual exploitation of children and child pornography. Both these Decisions are described in more detail in section 3.1.5.

### **3.1.7 Human rights of women**

The EU is committed to advancing the full enjoyment of human rights by women. EU Member States and the Commission strongly support the principle of equality between women and men (gender equality) and the need to ensure effective gender mainstreaming in all policies and actions at European Union level.

Relevant provisions in EU instruments include : Article 2 of the EC Treaty making the promotion of equality between men and women a specific goal of the EC ; Article 3 requiring the Community to eliminate inequalities and promote equality between men and women in a wide range of activities ; Article 13 providing the basis for legislation to combat discrimination, inter alia based on sex and Article 23(1) of the Charter of Fundamental Rights reaffirming the need to ensure equality in all areas, including employment, work and pay.

The Community Framework Strategy on Gender Equality (2001-2005) establishes a comprehensive framework to promote gender equality through a wide range of actions within five fields of intervention : economic life ; equal participation and representation ; social rights ; civil life and gender roles and stereotypes.<sup>1</sup>

Moreover, the European Commission issues an Annual Report on Equal Opportunities for Women and Men to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions detailing the main developments at Member State and EU level in the area of gender equality. The seventh such report was published on 5<sup>th</sup> March 2003.<sup>2</sup> The report includes an examination of efforts to work for gender equality in an enlarged EU, through the European Employment Strategy and the Structural Funds and developments in legislation and specific policy areas.

The developments in EU efforts to combat trafficking outlined in section 3.1.5 have a particularly important impact on the full enjoyment of human rights by women. For example, the Council Framework Decision of 19<sup>th</sup> July 2002 served to broaden the definition of trafficking according to the “Protocol to Prevent, Suppress and Punish trafficking in persons, especially women and children, supplementing the UN Convention against Transnational Crime”. Moreover, the Council Conclusions relating to the Brussels Declaration identified the development of supportive measures to protect victims of trafficking, especially women and children as an area of particular importance.

### **3.1.8 Human Rights and business**

The EU seeks to promote human rights in its trade relations and in the business context. A human rights clause is inserted in a wide range of Community agreements – including trade and cooperation agreements – and makes respect for human rights an "essential element" of the agreement (see section 4.1 for further details).

### **Corporate Social Responsibility**

On 2 July 2002, the Commission adopted a communication on CSR – A business contribution to Sustainable Development (COM(2002) 347 final) following the Green Paper – Promoting a European framework for Corporate Social Responsibility, of June 2001 (COM(2001) 366). The launch of this communication is an important step in the development of a coordinated EU-level approach to developing and promoting CSR and is designed to work alongside existing initiatives developed by a range of bodies and by companies themselves.

In the chapter on integrating CSR in all EU policies, there is a section on external relations policies that refers to the EU's human rights policy and the particular contribution that the EU can make to promoting CSR at international level due to its unique set of instruments and agreements.

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<sup>1</sup> Full text available at: [http://europa.eu.int/comm/employment\\_social/equ\\_opp/strategy\\_en.html](http://europa.eu.int/comm/employment_social/equ_opp/strategy_en.html).

<sup>2</sup> Full text available at: [http://europa.eu.int/comm/employment\\_social/equ\\_opp/report\\_en.html](http://europa.eu.int/comm/employment_social/equ_opp/report_en.html).

One of the main innovations in the strategy outlined in the communication is the setting up of a new "European Multi-Stakeholder Forum" on CSR (CSR EMS Forum). The forum was launched on 16 October 2002 and brings together a wide range of EU-level organisations representing business networks, trade unions and NGOs. It aims to promote innovation, convergence and transparency in existing CSR practices and tools through the exchange of experience and good practice. The forum will present to the Commission, by the summer of 2004, a report on its work.

Thematic Round Tables have been set up to implement the Forum Work Programme. One of these Round Tables is addressing the international/development dimension of CSR, including the role of multinational enterprises in promoting human rights, including social and economic rights, core labour standards, good governance and environmental protection.

### **OECD Guidelines for Multinational Enterprises**

The EU has continued to take an active role in promoting the OECD Guidelines for Multinational Enterprises. The Guidelines are a comprehensive and respected corporate responsibility instrument containing voluntary principles and standards for responsible business conduct in areas that include human rights, core labour standards and anti-corruption measures. The Guidelines have global reach as they are recommended by the governments of the 37 signatory countries<sup>1</sup> to multinational enterprises based in those countries wherever in the world they operate.

For its part, the Commission has promoted awareness and debate on the OECD Guidelines across the range of its activities, including through the Multistakeholder Forum on CSR, and in external trade and cooperation agreements with third countries such as the EU-Chile Association Agreement, signed on 18 November 2002. The Commission has continued to organise conferences and workshops to promote CSR and the Guidelines, and is supporting a series of seminars in developing countries during 2003, organised by the Trade Unions Advisory Committee to the OECD, with the aim of raising awareness of the Guidelines.

### **European Union Code of Conduct on Arms Exports**

In the area of arms export, the EU has put special emphasis on the respect for human rights in its European Union Code on Arms Export, which was adopted by the Council of Ministers in June 1998. When assessing export applications, EU Member States take into account the human rights situation in countries of destination. The Member States have committed themselves to refusing the delivery of export licences, if there is a risk that the arms might be used for internal repression in the countries of destination. Special attention is paid to countries where the United Nations, the Council of Europe or the European Union have reported serious violations of human rights. Member States urge other arms-exporting states to subscribe to these human rights-related principles, as well as other principles encompassed by the Code of Conduct. To achieve this goal a EU-US Declaration on Responsibility of States and Transparency in the Field of Arms Exports was adopted at the Nice summit, which included a commitment on the part of the EU and the US to cooperate in this field. During the spring of 2001 the dialogue on the issue of arms export controls was intensified with countries that have applied for accession to the Union.

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<sup>1</sup> Signatory countries are the 30 OECD members and Argentina, Brazil, Chile, Estonia, Israel, Lithuania and Slovenia. Latvia is about to become a signatory and an application by Singapore is being considered.

### **Proposal from the European Commission to impose restrictions on trade in equipment which could be used for torture and the application of the death penalty**

In 2002 the Council of Ministers asked the Commission to prepare a proposal for controlling exports of goods which are not covered by national military lists nor by common lists of dual-use items, but which are nevertheless of considerable significance from a human rights perspective. A draft Council Regulation to ban or control the export and import of certain categories of instruments which could be used for torture and for the application of the death penalty has been prepared. This is in response to a Resolution adopted by the European Parliament on this issue on 3 October 2001 and the Resolutions of the UN Commission on Human Rights (CHR) of 2001, 2002 and 2003 on torture and other cruel, inhuman or degrading treatment or punishment. These UN Resolutions called for UN Member States to take appropriate steps to prevent and prohibit the export of equipment designed to inflict torture.

### **Conflict diamonds: implementation of the Kimberley Process certification scheme**

On 20 December 2002, the Council adopted Regulation (EC) No 2368/2002, which provides for the implementation of the Kimberley Process certification scheme by the European Community. The Kimberley Process is a multilateral initiative bringing together governments, the diamond industry and NGOs, with the aim of eradicating the trade in conflict diamonds which has contributed to countless deaths and severe human rights violations in a number of African countries. The scheme, which has been in place since the beginning of 2003, seeks to ensure that no conflict diamonds are traded by requiring that all diamond shipments are accompanied by special certificates, by banning all trade in rough diamonds with non-Participants, and by requiring all Participants to respect certain minimum standards in diamond production and trade.

### **3.2 Charter of Fundamental Rights and Convention**

Through its proclamation at the Nice European Council in December 2000, the Charter of Fundamental Rights has acquired an important position. It is a reference document making citizens of the Union and of the candidate countries aware of their rights and of the values on which the Union is built. Although the Charter is not legally binding, citizens are invoking it ever more frequently in letters, appeals and petitions addressed to Union institutions.

Lawyers are also invoking the Charter more and more often before the judicial bodies of the Union, and the Advocates-General at the Court of Justice of the Communities regularly refer to it in their conclusions, while underlining – it must be admitted – its lack of binding legal force.

For the first time since its proclamation, the Court of First Instance made explicit reference to the Charter in recent judgments on 30 January 2002 and 3 May 2002.

The Commission also considers that it is necessary to draw practical lessons from the proclamation of the Charter, and to guide its conduct by the rights contained in it. With this in mind, any proposal for a legislative or regulatory act adopted by the Commission will now be subject to an *a priori* compatibility check with the Charter, attested by the inclusion of a standard recital in proposals which have a connection with fundamental rights.

The Charter affirms the existing rights on which the Union is founded, and which it respects in accordance with Article 6 of the TEU. It contains various categories of rights:

- rights and freedoms and procedural guarantees, as they result from the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the common constitutional traditions of the Member States;
- rights connected with European citizenship, which are found in particular in the second part of the Treaty establishing the European Community (TEC), entitled "citizenship of the Union";
- economic, social and cultural rights which correspond to provisions of employment and social law;
- "modern" rights intended in particular to meet challenges connected with current and future developments in information technology and genetic engineering.

In the draft European Constitution which it submitted to the European Council in Thessaloniki in June 2003, the Convention on the future of Europe proposed that the Charter be fully incorporated into the future European Constitution as Part II, making it legally binding. The Convention proposed a number of technical adjustments and further clarification of the scope of the rights recognised by the Charter (paragraphs 51-52) which do not affect their substance. It is now up to the Intergovernmental Conference which is due to meet in autumn 2003 to confirm this choice in the final text of the new constitutional Treaty.

## **4. ACTION ON HUMAN RIGHTS IN INTERNATIONAL AFFAIRS**

### **4.1 EU instruments and initiatives in relations with third countries**

This section describes the main legal instruments at the EU's disposal to develop and consolidate respect for human rights and fundamental freedoms and gives examples of initiatives taken by the EU in the period covered by this report, reflecting its concerns in the human rights field and describing progress made. First, the main legal instruments of the EU's Common Foreign and Security Policy (CFSP) will be discussed. Secondly, the European Community's external trade and development cooperation policies are outlined.

#### **4.1.1 Common strategies, joint actions, common positions**

Common strategies, common positions and joint actions are the main legal instruments of the EU's Common Foreign and Security Policy (CFSP) (Articles 13, 14 and 15 of the Treaty on European Union). A significant number of them are focused on human rights and democratisation or contain substantial human rights elements. In addition to these legal instruments, the EU has also entered into various regional agreements governing its relations with particular regions, in the context of which human rights and democratisation issues are promoted.

The EU attaches great importance to the contacts and political dialogue which it undertakes with third countries and regions. The EU adopted Guidelines on Human Rights Dialogues on 13 December 2001, in which it pledges to raise the issue of human rights, democracy and the rule of law in all meetings with third countries and sets out conditions for the initiation and conduct of specific human rights dialogues, such as the one with Iran.<sup>1</sup> The EU also undertakes regular consultations with countries which have a similar approach to human rights issues.<sup>2</sup>

#### **Common strategies**

The aim of common strategies is to set objectives and increase effectiveness of EU actions through enhancing the overall coherence of the Union's policy. They are adopted by the European Council (Heads of State or Government) to be implemented by the Union in areas where the Member States have important interests in common.

In the CFSP field, the Common Strategy on Russia, adopted in June 1999, has led to a further reinforcement of the political dialogue at all levels, in which all questions of common interest have been tackled, including Chechnya. In implementing this common strategy during the period covered by the report, the Danish and Greek Presidencies continued to act in accordance with the idea that relations between the EU and the Russian Federation must be based on a series of shared values among which paramount importance is given to the respect for the rule of law and the defence of democracy and human rights. The available methods of political dialogue and financial resources were applied by the EU to this end. The EU closely followed the situation of the media in Russia and underlined the importance of the plurality and independence of news in the federal, regional and local media.

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<sup>1</sup> See section on the EU-China Dialogue and section on EU-Iran dialogue.

<sup>2</sup> See section on the EU's human rights dialogues with like-minded countries.

As regards implementation of the Common Strategy on Ukraine, adopted in December 1999 with the consolidation of democracy, the rule of law and civil society as one of its principal objectives, the years 2002-2003 have been marked by continued cooperation and dialogue between the EU and Ukraine in all the defined areas. Each Presidency presents a work plan on how to implement the Common Strategy, the results of which are subsequently reported to the European Council at least once a year. Freedom of the media has been among the key priorities in the period of the report, leading the EU to conduct various démarches on the deterioration of the media situation and the deaths of journalists. At the EU-Ukraine Summit on 4 July 2002, it was agreed that the strengthening and stability of institutions guaranteeing democracy and the rule of law is of vital importance for Ukraine's development and for an intensified relationship with the EU.

In implementing the Common Strategy on the Mediterranean region, adopted in June 2000, the EU continued its efforts to set up a more structured dialogue in the fields of human rights, democracy, the rule of law and good governance.<sup>1</sup> In June 2003, the Council adopted the Presidency's report on the implementation of the Common Strategy. In May 2003, the Commission issued a communication on reinvigorating EU actions on human rights and democratisation with Mediterranean partners, which was very much welcomed by various Council working parties (9696/03). They saw it as exemplary in the light of the Council's aim to increase coherence and to mainstream EU human rights policy. The communication aims to enhance consistency and coherence in the field of human rights in the region by making a series of concrete recommendations with regard to, for instance, the use of political dialogue, action plans and technical assistance. The Commission is considering the possibility of drawing up similar proposals for other regions.

### **Joint actions**

Joint actions address specific situations where operational action by the Union is deemed to be required. In the period covered by this report, the EU has adopted a considerable number of joint actions relevant to human rights.

On 1 January 2003 the European Union Police Mission (EUPM) was launched. This mission is the EU's first operation under the European Security and Defence Policy (ESDP). The EUPM followed on from the United Nations International Police Task Force in Bosnia and Herzegovina.<sup>2</sup>

Following the adoption of the Joint Action regarding a contribution from the EU to the conflict settlement process in South Ossetia in October 2001, the EU has been contributing to the creation of the conditions for the Georgian and South Ossetian sides to achieve real political progress towards a lasting and peaceful settlement of the differences between them.<sup>3</sup> Active EU participation in expert groups and the grant to the OSCE Mission to Georgia contribute to building momentum in the settlement process.

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<sup>1</sup> OJ L 183, 22.07.2000, p. 5.

<sup>2</sup> Presse 422, P 202/02 of 31 December 2002.

<sup>3</sup> OJ L 286, 30.10.01, p. 4.



In December 2002 the Council adopted the extension of the mandates of five EU Special Representatives (EUSRs), namely the EUSRs for Afghanistan, the Middle East peace process, the African Great Lakes Region, the Stability Pact for South-Eastern Europe and the former Yugoslav Republic of Macedonia.<sup>1</sup> The extension followed an overall review that helped to improve the instrument of EUSRs as it streamlined and clarified the policy objectives and the mandates of each EUSR as well as the roles of and coordination between all relevant EU actors. The mandates were again extended in June 2003, and an additional EUSR was appointed for the South Caucasus.<sup>2</sup>

On 5 June 2003 the Council adopted a Joint Action on the European Union military operation in the Democratic Republic of Congo (doc. 9955/1/03 REV 1). The EU-led military operation, code named "Artemis", will be conducted in accordance with the mandate set out in UN Security Council Resolution 1484 of 30 May 2003. This resolution authorises the deployment until 1 September 2003 of an interim emergency multinational force in Bunia (DRC) in close coordination with the UN Organisation Mission in the DRC (MONUC), to contribute *inter alia* to the stabilisation of the security conditions and the improvement of the humanitarian situation in Bunia.

### **Common positions**

Common positions define the approach of the Union to a particular matter of general interest of a geographic or thematic nature. Member States must ensure that their national policies conform to the common positions. In the period covered by this report, the EU drew up the following human rights-related common positions:

**Western Balkans:** the Council on 16 April adopted a common position aimed at supporting the effective implementation of the mandate of the International Criminal Tribunal for the former Yugoslavia by placing a travel ban on persons involved in the evasion of justice.<sup>3</sup> The common position requires Member States to take the necessary measures to prevent the entry or transit of specific persons (listed in the annex to the common position) who are engaged in activities helping persons at large to evade justice for crimes for which the ICTY has indicted them, or who are otherwise acting in a manner which could obstruct effective implementation of the ICTY's mandate. The list of persons subject to the travel ban was updated on 1 July 2003, with the addition of further names.<sup>4</sup>

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<sup>1</sup> OJ L 334, 11.12.02, pages 3-11, OJ L 150, 18.06.2003, pages 70-74.

<sup>2</sup> OJ L 169, 08.07.2003, p. 74.

<sup>3</sup> OJ L 101, 23.04.2003, p. 22.

<sup>4</sup> OJ L 162, 1.7.2003, p. 77.

**Burma/Myanmar:** in October 2002, the Council concluded that in view of the fact that there had been insufficient progress in the situation of human rights in Burma/Myanmar, the common position of 1996 was extended for a further 6 months, and the list of persons subject to restrictive measures was amended following changes in the composition of the regime in Burma/Myanmar.<sup>1</sup> In April 2003, the Council judged that the political situation had further deteriorated. In the absence of substantive progress in the coming months, it therefore deemed it necessary to further expand and strengthen the measures taken against the military regime, those who benefit most from its misrule and those who actively frustrate the process of national reconciliation, respect for human rights and democracy. Accordingly, the scope of the visa ban and assets freeze was extended and the arms embargo was modified to prohibit technical training or assistance.<sup>2</sup> Equipment for humanitarian use was exempted. These measures were suspended until 29<sup>th</sup> October 2003. Following the violent attack on Aung San Suu Kyi and her supporters on 30<sup>th</sup> May 2003, the subsequent detention of Aung San Suu Kyi and other senior NLD members and the closure of NLD offices, the Council decided on 16<sup>th</sup> June to bring forward immediately the suspended measures.<sup>3</sup>

**Africa:** reviews are currently being carried out of the Common Position on human rights, democratic principles, the rule of law and good governance in Africa<sup>4</sup>, as well as the Common Position concerning conflict prevention, management and resolution in Africa adopted in May 2001.<sup>5</sup>

**Rwanda:** In the light of developments in Rwanda, the EU adopted a new Common Position in October 2002, committing itself to pursuing a constructive and critical political dialogue with the Government of Rwanda, including amongst its objectives and priorities the recovery from genocide and the promotion of national reconciliation, the protection and promotion of human rights and fundamental freedoms, and the transition to democracy.<sup>6</sup>

**Somalia:** On 10 December 2002 the Council adopted a Common Position concerning restrictive measures against Somalia, putting into effect UN Security Council Resolution 1425 (2002) which extends the arms embargo to prohibit the direct or indirect supply to Somalia of technical advice, financial and other assistance, and training related to military activities.<sup>7</sup> In October 2002, the EU had welcomed the Peace and Reconciliation Process that was launched in Eldoret, Kenya, and the declaration on the cessation of hostilities.

**Sierra Leone:** on 19 December 2002 the Union adopted a further Common Position concerning prohibition on imports of rough diamonds from Sierra Leone, to reflect the extension of United Nations Security Council Resolution 1306 (2000).<sup>8</sup>

**Zimbabwe:** noting further deterioration in the situation in Zimbabwe, where serious violations of human rights and of freedom of opinion, of association and of peaceful assembly continue to occur, the EU amended and extended the Common Position concerning restrictive measures against Zimbabwe.<sup>9</sup> The targeted measures were designed not to harm ordinary citizens of Zimbabwe or its neighbours and the EU remained committed to providing humanitarian assistance to the people of Zimbabwe.

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<sup>1</sup> OJ L 285, 23.10.2002, p. 7.  
<sup>2</sup> OJ L 106, 29.04.2003, p. 36.  
<sup>3</sup> OJ L 154, 21.06.2003, p. 116.  
<sup>4</sup> OJ L 158, 2.6.1998, p. 1.  
<sup>5</sup> OJ L 132, 15.05.2001, p. 3.  
<sup>6</sup> OJ L 285, 23.10.2002, p. 3.  
<sup>7</sup> OJ L 334, 11.12.2002, p. 1.  
<sup>8</sup> OJ L 348, 21.12.2002.  
<sup>9</sup> OJ L 046, 20.02.2003, p. 30.

**The Democratic Republic of the Congo (DRC):** in May 2003 the Union adopted a Common Position aimed at supporting the implementation of the Lusaka cease-fire agreement and the various peace agreements both internal and international, achieved in 2002 and 6 March 2003, and the relevant UN Security Council Resolutions, and the overall peace process under way in the DRC <sup>1</sup> Subsequently, the EU adopted the Joint Action on the EU-led military operation, mentioned above.

**Nigeria:** in May 2002 the Union repealed its Common Position of May 2001 and adopted a new one with the objective of strengthening relations between the EU and Nigeria in all areas of common interest. The new Common Position, to be reviewed annually, provides that strengthened relations between the EU and Nigeria shall be based on equality, dialogue and shared values of respect for human rights, democratic principles, the rule of law and good governance, to be achieved through a constructive political dialogue, as well as efficient development cooperation. The Common Position had not yet been reviewed during the period covered by this report.

**Liberia:** the Council amended its Common Position in order to implement UN Security Council Resolution 1478 (2003) amending and extending measures imposed against Liberia. These measures pertained to travel restrictions on certain individuals and the direct or indirect import into the Community of all round logs, timber products and diamonds originating in Liberia. <sup>2</sup>

**Angola:** the Council decided to review its common positions in December 2002 following the adoption by the United Nations of Resolution 1448 (2002) lifting sanctions against Angola, the Council decided to review its Common Positions in December 2002, Resolution 1439 (2002) repealing the travel restrictions imposed by Resolution 1127 (1997) and following the steps taken by the Government of Angola and UNITA toward the full implementation of the "Acordos de Paz", the Lusaka Protocol, the Memorandum of Understanding of 4 April 2002, relevant UN Security Council Resolutions, the declaration on the peace process issued by the Government of Angola on 19 November 2002 and the completion of the work of the Joint Commission. <sup>3</sup>

**Cuba:** The EU Common Position on Cuba was maintained at the 12th evaluation in December 2002 as there had been no significant changes in the Human Rights situation. The EU agreed not to re-evaluate until December 2003. However, following the deplorable actions of the Cuban authorities since March 2003, the EU decided to limit bilateral high-level governmental visits, reduce the profile of member states' participation in cultural events, to invite Cuban dissidents to national day celebrations, and to hold an extraordinary re-evaluation of the Common Position. The Common Position was upheld unchanged for the 13th time in June. The EU has made representations to the Cuban government calling for the release of political prisoners and asking that prison conditions conform to international standards. The EU has renewed its commitment to constructive dialogue, but the Cuban government has rejected these efforts.

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<sup>1</sup> OJ L 115, 9.5.2003, p. 87.

<sup>2</sup> OJ L 124, 20.05.2003, p. 49.

<sup>3</sup> OJ L 348, 21.12.2002, p. 1.

**International Criminal Court:** the Rome Statute of the International Criminal Court entered into force on 1 July 2002 and the Court is now fully functional. All Member States of the EU have ratified the Rome Statute. In response to efforts by the United States to conclude bilateral immunity agreements, in its conclusions of 30 September 2002 on the ICC, the Council developed a set of principles to serve as guidelines for Member States when considering the necessity and scope of possible agreements or arrangements in response to proposals regarding the conditions for surrendering persons to the ICC. In view of the above, the Union amended its Common Position of June 2001 in June 2003 to include measures to promote the effective functioning of the Court, and to advance universal support for it by promoting the widest possible participation in the Statute.<sup>1</sup> This means also drawing the attention of third States to the EU's positions on bilateral immunity agreements.

#### **4.1.2 Démarches/Declarations**

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

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

During the period covered by this report, démarches concerning human rights have been made inter alia on: Afghanistan, Algeria, Angola, Armenia, Bangladesh, Barbados, Belarus, Belize, Benin, Botswana, Burkina Faso, Burma, Burundi, Cambodia, Cameroon, Chad, China, Cote d'Ivoire, Cuba, the DRC, Djibouti, East-Timor, Egypt, El Salvador, Ethiopia, Equatorial Guinea, Gabon, Ghana, Georgia, Guatemala, Guinea Bissau, Haiti, Honduras, India, Indonesia, Iran, Israel, Japan, Jordan, Kenya, Kuwait, Laos, Libya, Malaysia, Mauritania, Moldova, Mozambique, Namibia, Nepal, Nigeria, the Palestinian Authority, Pakistan, the Philippines, the Russian Federation, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Singapore, South Korea, Sri Lanka, Sudan, Swaziland, Syria, Tajikistan, Thailand, Togo, Tunisia, Ukraine, Uganda, the USA, Uzbekistan, Vietnam, Zambia and Zimbabwe.

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<sup>1</sup> See section pertaining to the International Criminal Court.

During the same period, the Union made human rights-related declarations concerning inter alia the following countries: Afghanistan, Angola, Argentina, Armenia, Azerbaijan, Bahrain, Bangladesh, Belarus, Bolivia, Brazil, Burma, Burundi, Cameroon, Central African Republic, China, Colombia, the Democratic Republic of the Congo, Cote d'Ivoire, Croatia, Cuba, East Timor, Egypt, Equatorial Guinea, FYROM, FRY, Georgia, Guatemala, Guinea Bissau, Haiti, India, Indonesia, Israel, Jamaica, Kazakhstan, Liberia, Madagascar, Malaysia, the Republic of Moldova, Morocco, Nepal, Nigeria, the Palestinian Authority, Qatar, the Russian Federation, Sierra Leone, Somalia, Sri Lanka, Sudan, Syria, Togo, Turkey, Turkmenistan, Venezuela, Yemen, and Zimbabwe.

#### **4.1.3 Human rights dialogues**

##### **EU-China Dialogue**

The structured EU-China human rights dialogue set up in 1996 constitutes the EU's preferred instrument for promoting improvements in the human rights situation in China. The dialogue is a channel of communication which allows the EU to express concern about abuses and seek information about human rights developments in China. It is also a way to expose the highest level of Chinese government to international human rights standards and EU best practice and a vehicle to identify concrete cooperation projects under the EIDHR and other instruments. This dialogue is held twice a year and is complemented by human rights seminars, which bring together academic experts, NGOs and other representatives from the EU and China. The EU is evaluating the results of the dialogue at regular intervals to determine to what extent its expectations have been met. In addition to dialogue sessions, the EU raises human rights concerns in bilateral summits, ministerial and experts' meetings with China. Public statements of concern, including at regular sessions of the United Nations' Commission on Human Rights, as well as démarches made on specific issues of concern, are other means of expressing EU views.

Dialogue meetings at senior official level took place from 13 to 15 November 2002 in Beijing and on 5 and 6 March 2003 in Athens. An EU-China Human Rights Seminar was held on 17 and 18 October in Copenhagen. A number of meetings, such as the seminar originally planned to take place in the spring, were ultimately cancelled against the backdrop of the SARS epidemic.

The dialogue which took place in November 2002 allowed for a candid exchange of views on a broad range of EU issues of concern, such as China's cooperation with UN mechanisms, freedom of association, freedom of expression and belief, torture prevention, the death penalty, administrative detention, the treatment of refugees, ethnic minorities' rights, especially in Tibet and Xinjiang, and individual cases. The EU Presidency managed to extract from the Chinese a written invitation to the UN Special Rapporteur on education. Chinese authorities also provided written information on individual cases raised by the EU. At EU initiative, the dialogue was followed by a field visit to Jiangxi province, where the EU is supporting the *EU-China Village Governance Project*, which provided an opportunity to reaffirm the commitment of the EU to promote democracy at the grassroots level in China.

A particularly frank and substantial exchange of views took place during the dialogue of March 2003 in Athens. On Tibet, there was continued openness to dialogue with the Dalai Lama. China reiterated its invitation to Mr Vieira de Mello and other UN special rapporteurs. The EU encouraged China to set dates as soon as possible for these visits. Chinese authorities invited EU experts to assist in the drafting of China's first report on the implementation of the ICESCR. They welcomed the readiness of the Commission to set up a new cooperation project on the prevention of torture. They also provided written information on individual cases raised by the EU. The two sides agreed to establish a follow-up mechanism, in Beijing, to monitor human rights developments and individual cases between formal rounds of the dialogue.

The EU regretted, however, that there was little progress on core issues such as the death penalty, administrative detention, labour unions, freedom of expression, freedom of association, freedom of religion and belief and North Korean refugees. The EU also repeated its strong condemnation of the execution of the Tibetan monk Lobsang Dhondrup. The EU made it clear that the way in which the trial of Lobsang Dhondrup and Tenzin Deleg Rinpoche was handled was felt as a breach of the trust built up by the EU-China dialogue.

The EU-China Human Rights Seminar of 17-18 October provided an opportunity for exchanges of views on the prevention of torture and the role of national human rights institutions. It was followed by field visits to relevant Danish institutions, which presented their experiences in external cooperation within the two subject areas discussed at the seminar. Moreover, the possibility of specific cooperation between the EU and China were discussed at the seminar.

The General Affairs Council conclusions of 18 March 2003 reaffirmed that the dialogue was an acceptable option only if enough progress was achieved on the ground. The Council listed a number of serious concerns in this respect and set out its strategy in case a draft resolution on China were to be tabled during the 59th session of the UN Commission on Human Rights.

The EU Presidency in its statement to the UN Commission on Human Rights expressed explicit concern about the human rights situation in China, with regard *inter alia* to the extensive use of the death penalty, the continuation of the "strike-hard" campaign, the deprivation of religious and cultural rights in Tibet and Xinjiang, and the widespread use of torture and arbitrary detention. At the same time, the EU noted a number of positive developments, such as continued Chinese engagement with the international community in various fields, certain progress in relation to the establishment of the rule of law, the release of several Tibetan political prisoners, and a willingness to cooperate with the UN human rights mechanisms.

## **EU-Iran Dialogue**

In October 2002, the EU decided to enter into a structured dialogue with Iran on Human Rights, the first to be set up since the adoption of the EU Guidelines on Human Rights Dialogues in December 2001. Opening a human rights dialogue was assessed to be, at that point in time, the best opportunity to contribute to bringing about concrete improvements in the promotion and protection of human rights and fundamental freedoms in Iran. The EU had announced in June 2002 that it was entering into the negotiation of a trade and cooperation agreement with Iran, which would be accompanied by a political agreement. It was made clear that closer economic and commercial relations between the EU and Iran should be matched by similar progress in all other aspects of the relations with Iran; in particular, the EU was expecting significant positive developments on four areas of concern: human rights, non-proliferation, terrorism and the Middle East Peace Process. The actual situation of human rights in Iran is therefore one of the factors that will determine future progress in EU-Iranian relations.

The human rights dialogue with Iran is based on a number of mutually agreed principles: it is established without preconditions and prejudice to the tabling of a resolution at the Third Committee of the United Nations General Assembly or the United Nations Commission on Human Rights; all human rights issues can be discussed; each party can choose to terminate the dialogue at any time; and the dialogue is based on realistic and concrete benchmarks to evaluate progress. These benchmarks include all areas of concern to the EU, including, inter alia, Iran's signing, ratification and implementation of international human rights instruments; cooperation with international human rights procedures and mechanisms; openness, access and transparency; the fight against discrimination; improvements to the prison system; civil and political rights; freedom of the press and freedom of expression; reduction of arbitrary detention and forced disappearances; a moratorium on stoning, and on the death penalty for minors; non-discrimination against women.

The format of the dialogue consists of a round-table that includes, in both the Iranian and EU delegations, academics, experts and members of civil society, including representatives of some of the main European-based NGOs and the Islamic Human Rights Commission. Representatives of the Iranian government, judiciary, and Parliament also take part in the round-table. The round-table is immediately followed by a restricted officials' meeting conducted by the EU Troika, the Iranian Government and judiciary. Two sessions a year are held.

The first session of the dialogue took place in Tehran in December 2002. The round table's topics were the fight against torture and the fight against discrimination. The second session of the dialogue was held in Brussels in March 2003, where the round table focused on the themes of fair trial and the rule of law. Both sessions of the dialogue were held in the same open and constructive atmosphere and in the restricted meetings at senior official level all human rights issues of concern to the EU were reviewed on a systematic basis by reference to the EU's benchmarks.

In their first evaluation of the EU-Iran HR dialogue on the occasion of the General Affairs and External Relations Council of 18 March 2003, EU Foreign Affairs Ministers welcomed the commitment expressed by the government of Iran to strengthening respect for human rights in the country and to promoting the rule of law. The Council remained deeply concerned, however, by continuing serious violations of human rights, including the restrictions on freedoms of opinion and expression; death penalty sentences carried out in the apparent absence of respect for internationally recognised safeguards, including in public; the use of torture and other forms of cruel, inhuman and degrading punishment; and discrimination, in law and in practice, against women and girls as well as against persons belonging to religious minorities. Further reform of the system of administration of justice in Iran was considered to be much needed.

On the positive side, the Iranian government's standing invitation to the thematic special procedures of the UN Commission on Human Rights, after years of refusal to allow any visit by the Special Rapporteur for Iran, was regarded by the Council as a welcome development, as was the cooperation that had been extended to the Working Group on Arbitrary Detention during its visit in February 2003. Other positive steps were the decisions to re-establish the office of Prosecutor and to separate the civil and penal tribunals, the de facto moratorium on the imposition of sentences to death by stoning, and the efforts being made to have legislation passed to progress towards ratification of the key UN Human Rights Conventions still not ratified by Iran.

Overall, at this first evaluation in March 2003 Ministers reaffirmed that the human rights dialogue with Iran was one of the means by which the EU could work towards improving the human rights situation in the country, but that this was an acceptable option only if sufficient progress was achieved and reflected on the ground. Further confirming that the establishment of such a dialogue was without prejudice to the tabling of a resolution in the relevant UN Human Rights fora, the EU on this occasion decided not to table a resolution on human rights in Iran at the 59th session of the UN Commission on Human Rights (CHR) in April 2003. The EU did, however, take the opportunity presented by its customary statement at the CHR, under agenda item 9, to convey its serious concerns about the situation in Iran, whilst welcoming a few signs of progress.

In addition to the human rights dialogue, human rights issues are among the four topics that are discussed twice a year at senior official level in the framework of the comprehensive political dialogue with Iran. Finally, as with any other third country, public statements as well as démarches on specific, topical issues are the other means by which the EU expresses its concerns as regards human rights issues in Iran.



#### **4.1.4 Human Rights consultations with the US, Canada, Japan and associated countries**

##### **EU-US consultations**

The customary twice-yearly troika expert meetings with the US prior to the UN Commission on Human Rights (CHR) and the Third Committee of the UN General Assembly were supplemented for the first time by informal consultations on human rights with the US in October and December 2002 and February 2003, designed to examine specific language difficulties in resolutions tabled in the two fora.

These meetings have provided the opportunity to explore further possibilities for cooperation on human rights' issues in multilateral fora and to discuss issues where the EU and US take differing approaches, for example the death penalty and the Convention on the Rights of the Child. With the EU and US continuing to work closely together on human rights issues, one of the positive results of the intensified exchanges was the joint presentation by the EU and US of a resolution on Turkmenistan at the 59th CHR in April 2003.

##### **EU-Canada consultations**

The EU and Canada continued their strong cooperation on human rights issues with discussions on strategy, initiatives and cooperation in the context of the UN Commission on Human Rights and the Third Committee of the UN General Assembly. The twice-yearly troika expert meetings also provided the opportunity to discuss dialogues on human rights pursued by Canada and the European Union with third countries and the respective approaches to important human rights events such as the development of an international Convention on the full enjoyment of all human rights and fundamental freedoms of persons with disabilities.

##### **EU-associated countries consultation**

The EU continued to coordinate closely with the associated countries on human rights issues and the approach taken in multilateral fora. With the signature of the Treaty of Accession on 16 April 2003 by the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, coordination on human rights issues on the ground in fora such as the CHR and Third Committee will be reinforced as their accession to the EU draws closer. The acceding countries now also participate in COHOM meetings.

#### 4.1.5 Human rights clauses in cooperation agreements with third countries

Since the early 1990s, a human rights "essential element" clause has been systematically included in European Community agreements with third countries, including trade and cooperation accords and association agreements such as the Europe Agreements, Mediterranean Agreements and the Cotonou Agreement (formerly the Lomé Convention). Such clauses stipulate that respect for fundamental human rights and democratic principles underpins the internal and external policies of the parties and constitutes an "essential element" of the agreement. In the event of a breach, the Commission communication of 1995<sup>1</sup> makes clear that there are a range of measures which could be considered, with the proviso that the application of measures should respect "*the principle of proportionality between the breach cited and the degree of reaction*". These include: alteration of the contents of cooperation programmes or the channels used; reduction of cultural, scientific and technical cooperation programmes; postponement of a Joint Committee meeting; suspension of high-level bilateral contacts; postponement of new projects; refusal to follow up partners' initiatives; trade embargoes; suspension of arms sales, suspension of military cooperation and suspension of cooperation. However, as the Commission communication of 8 May 2001<sup>2</sup> underlines, the inclusion of an essential elements clause is not intended to signify a negative or punitive approach. It is meant to promote dialogue and positive measures, such as joint support for democracy and human rights, the accession, ratification and implementation of international human rights instruments where this is lacking, and the prevention of crises through the establishment of a consistent and long-term relationship.

The Cotonou Agreement with 77 African, Caribbean and Pacific countries (which entered into force on 1 April 2003) includes a "state of the art" version of the essential elements clause with a new procedure for cases of violation of the essential elements including a consultation process with the third country concerned. In cases of special urgency – serious violations of one of the essential elements – measures will be taken immediately and the other party notified. The Agreement also includes a commitment to good governance as a fundamental and positive element of the partnership, a subject for regular dialogue and an area for active Community support. The EC and the ACP have agreed on a new procedure to be launched in serious cases of corruption.

The human rights' clause has been invoked on a number of occasions since 1996 as the basis for consultations, suspension of aid or other measures, including with respect to the following countries: Niger, Guinea Bissau, Sierra Leone, Togo, Cameroon, Haiti, Comoros, Côte d'Ivoire, Fiji, Liberia and Zimbabwe.

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<sup>1</sup> The Commission communication on the Inclusion of Respect for Democratic Principles and Human Rights in Agreements between the Community and Third Countries of 1995 (COM(95)216) sets out a standard approach to the human rights clause.

<sup>2</sup> Com 2001 (252)

The European Parliament and NGOs have set out their views on how the clause should be implemented on several occasions, a recent example being the Human Rights Forum in Copenhagen in December 2002 (see Chapter 2 for more details and a link to the report) where several recommendations were made by the working group dealing with this issue. The draft annual report by the European Parliament on human rights in the world in 2002 also includes several recommendations on the clause.

The Commission is exploring ways in which to use the human rights clause more effectively. The idea of using the clause to establish dedicated working groups on human rights with third countries is being piloted: in 2003 a Subgroup on Governance and Human Rights was established for the first time under the Cooperation agreement with Bangladesh. The group provides an opportunity for in-depth exchanges on human rights issues between EU and Bangladeshi officials. Its first meeting took place on 19 May 2003 in Dhaka and addressed a wide range of issues, including the death penalty, the judicial system, support to electoral processes and the creation of a Human Rights Commission. The possibility of providing further support for human rights projects was also explored.

As noted in the section on mainstreaming, the Commission Communication of 21st May 2003 on « *Reinvigorating EU actions on human rights and democratisation with Mediterranean partners* » also draws on the clause in order to pioneer a more developed approach to human rights and democratisation in the region. The Communication identifies ten areas for improvement including the development of National and Regional Action Plans on Human Rights, a more operational focus on human rights in political dialogue and greater attention to human rights and democratisation issues in CSPs and National Indicative Programmes.

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

In order to provide a legal basis for all human rights and democratisation activities of the European Union under Chapter B7-70, the Council adopted two Regulations (975/1999 and 976/1999) on 29 April 1999 on the development and consolidation of democracy and the rule of law and respect for human rights and fundamental freedoms under Articles 179 and 308 TEC. This chapter B7-70, entitled "European Initiative for Democracy and Human Rights", was created by an initiative of the European Parliament in 1994, which brought together a series of budget headings specifically dealing with the promotion of human rights. Activities implemented under Chapter B7-7 are complementary to the other EU instruments such as Phare, Tacis, MEDA and other instruments of financial and technical cooperation under which human rights and good governance initiatives can be supported in third countries.

The Regulations provide for the establishment of a Human Rights and Democracy Committee which started its work in July 1999. It is composed of representatives of the 15 Member States and chaired by the Commission. The Committee may examine any issue concerning Community aid in the field and should also play a useful role as a means for improving the coherence of the human rights and democratisation actions of the EC towards third countries. Once a year, it examines planning for the following financial year or discusses general guidelines for operations under the Regulations to be undertaken in the year ahead. Its task is also to assist the Commission in the implementation of Chapter B7-7 by delivering opinions on projects over EUR 1 million. The Committee is also systematically notified of projects below EUR 1 million.

This budget chapter is aimed more specifically at NGOs. In implementing its human rights policy, the European Union recognises the importance of the contributions made by international, regional and non-governmental organisations to civil society and to the development of a democracy that upholds political, civil, economic, social and cultural rights. The Union values both the expertise which many organisations working to implement human rights possess, as well as their visibly high impact in the field of human rights.

Approximately EUR 100 million is available annually under Chapter B7-7 of the budget to support human rights, democratisation and conflict prevention activities to be carried out primarily in partnership with NGOs and international organisations. The partners eligible for financing are regional and international organisations, non-governmental organisations, national, regional and local authorities and official agencies, community-based organisations and public or private-sector institutes and operators.

A gender dimension is mainstreamed in the implementation of the Budget Chapter. The regulations refer explicitly to women as a target group. They include several references to equal opportunities, non-discrimination and the promotion of women in: "the promotion of equality of opportunity and non-discriminatory practices" – "promoting the equal participation of women and men in civil society, in economic life and politics" – "promote the equal participation of specific groups, particularly women, in the electoral process".

In 2002, the amount available for the activities of the EIDHR was EUR 104 million, covering the following two budget headings:

B7-701: Development and consolidation of democracy and the rule of law – Respect for human rights and fundamental freedoms

B7-702: Support for the activities of international criminal tribunals and the setting-up of the International Criminal Court

Three principal means are at the disposal of the European Commission to implement EU strategies in these fields:

a) Projects identified through calls for proposals, with an EC contribution of not less than EUR 300 000, which is implemented by civil society operators including local authorities (but excluding official state, national and international governmental organisations or institutions).

In 2002, 5 thematic Calls for Proposals were launched. For the first 4 Calls for Proposals, the Commission selected a total of 66 projects worth EUR 47 264 594 (*for more details, see annex I*).

- Support for the abolition of the death penalty: 7 projects worth EUR 4 897 328
- Fighting Impunity & Promoting International Justice: 3 projects worth EUR 3 518 169
- Combating (i) racism & xenophobia; (ii) discrimination against ethnic minorities & indigenous people: 32 projects worth EUR 21 066 323
- The prevention of torture and (ii) the provision of support for the rehabilitation of torture victims: 24 projects worth EUR 17 782 774
- Democracy, Good Governance and the Rule of Law: Results will be known after July 2003

b) Targeted projects, which are projects for joint programmes with partners who can include international governmental organisations or national authorities. These projects will be identified by the European Commission in the pursuit of specific objectives, which cannot be assured through the call for proposals.

Between July 2002 and June 2003, a total of 47 projects were financed for a total EU contribution of EUR 41 041 048. (*for more details, see annex I*)

c) Micro-projects, which are small projects under EUR 50 000 administered directly by European Commission delegations in the countries concerned.

Micro-projects are selected through local Calls for Proposals and are managed, under delegated authority, by the European Commission delegations which have the required managerial capacity and procedures to ensure sound financial management of the programme in the 15 countries concerned. These countries have been selected because they are EIDHR focus countries for the years 2002-2004, and have been deconcentrated. In 2002 the programme benefits from a global amount of EUR 7 850 000, and will be operational in 2003.

## **4.2 EU action in international fora**

This section describes the main initiatives undertaken by the EU at both UN and regional level concerning specific country situations and thematic issues. First, EU action at the General Assembly and the Commission on Human Rights will be discussed. At the General Assembly, as in the Commission on Human Rights, the EU speaks with one voice on the human rights situation in the world. In this respect, the universal abolition of the death penalty continues to be a significant issue for the EU, as illustrated by the initiatives for a CHR resolution on the subject and the EU's desire to include references to the death penalty in country-specific resolutions at UNGA and CHR. In addition, the particular importance which the EU attaches to the protection of the rights of the child is reflected in the initiatives for a resolution on this issue in both the UNGA and in the CHR, which are taken together with GRULAC (group of Latin American and Caribbean countries).

Second, an overview is given of the second Ministerial Conference of the Community of Democracies, followed by the main developments at the regional level, within the framework of the Council of Europe and the Organisation for Security and Cooperation in Europe, as well as in the context of the Stability Pact for South Eastern Europe. Thematic issues of particular importance, such as the death penalty, will be further elaborated upon in section 4.3.

### **4.2.1 57th Session of the UN General Assembly: the Third Committee**

The Third Committee at UNGA 57 saw the adoption of a number of important human rights initiatives. The dialogues with the Special Rapporteurs and Special Representatives were fruitful and amounted to extensive discussions. The EU was once again one of the main driving forces behind the work of the Third Committee. It participated actively in formal sessions as well as informal consultations and introduced a number of resolutions. Compared to previous years, more associated countries and many others based their voting behaviour on the position of the EU.

For the first time, the EU revised its main human rights statement from a country-specific to a thematic statement.<sup>1</sup> The thematic approach allowed the EU to visualise its priorities of eliminating the death penalty and the prevention of torture, which were the two main themes of the statement.

Furthermore, the EU initiative to redraft and restructure its country resolutions with a view to streamlining and focusing the texts, was generally welcomed by co-sponsors and other interested actors. Numerous bilateral troika meetings were held with (groups of) third countries, for instance with JUSCANZ, ASEAN, the Rio-Group, the chair of the G77 and others. Finally, the Presidency sought a transparent and inclusive approach to the work within the Committee, inter alia, through distribution of written position papers in relation to particular resolutions (e.g. regarding racism, human rights and terrorism and the right of peoples to peace).

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<sup>1</sup> The EU statement at the Third Committee of UNGA 57 can be found on the inter-institutional web site on human rights.

The most important result of the Third Committee was the adoption of the Optional Protocol to the Convention Against Torture (OP/CAT). EU efforts certainly contributed to this success. Thanks to extensive lobbying by many delegations, working in partnership with NGOs the Protocol was adopted by a large majority (127 for, 4 against, and 42 abstentions) and almost 90 co-sponsors. The Committee also made visible the massive support for the ICC in the UN.

The resolutions put forward by the EU related to *Burma/Myanmar, the Democratic Republic of the Congo, Iraq, Sudan* and together with Grulac *the Rights of the Child*. All of these resolutions were adopted, albeit with decreasing margins compared to last year. On behalf of the EU, the Danish Presidency delivered a significant number of statements and explanations of vote in the plenary (30 in total), obtaining high political visibility.

Some Member States also introduced national initiatives, all of which were adopted.<sup>1</sup> The adoption without a vote of the resolution on elimination of crimes against women committed in the name of honour, presented by the Netherlands, was a major achievement.

With regard to resolutions tabled by third countries, all EU countries voted in favour of the omnibus resolution on racism following extensive and constructive negotiations with the G77. The text focused on the implementing role of the General Assembly, ECOSOC and the CHR in relation to the Durban commitments. Another positive achievement was the adoption without a vote of the resolution on protection of human rights while countering terrorism, presented by Mexico. The EU participated constructively in the negotiations and ensured the inclusion of stronger human rights language.

For the fourth consecutive year the Commission pronounced a statement on behalf of the European Community, this year on EU election observation policy.<sup>2</sup>

#### **4.2.2 59th Session of the UN Commission on Human Rights**

The 59th session of the UN Commission on Human Rights did not live up to the general expectation that it was going to be one of the most difficult sessions. In fact, despite the widely differing track records of Commission members, it turned out to be less confrontational than the previous year. In this respect, the late High Commissioner for Human Rights, Mr Sergio Vieira de Mello, made a valuable contribution to the work of the Commission.

Two developments set the tone for the 59th session. First, six weeks before the session, the chair was appointed through elections and not by the usual consensus, which caused frictions among the regional groups. The EU abstained from the vote, but a statement was made on behalf of the Western group to remind members of the Commission, and in particular the Chair from Libya, Mrs Najat al-Hajjaji, of the principled commitment to human rights values and standards that forms the basis of the work of the Commission.

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<sup>1</sup> For tabled resolution see: <http://www.un.org/ga/57/third/proposal.htm>; For adopted resolutions see: <http://www.un.org/depts/dhl/resguide/r57.htm>

<sup>2</sup> The Commission statement at the Third Committee of UNGA 57 can be found on the inter-institutional web site on human rights.

Secondly, pessimism prevailed concerning the international divisions with regard to the war in Iraq, which started at the very beginning of the annual session, and their effect on the proceedings of the Commission. A number of countries requested a special sitting on Iraq with the obvious objective of condemning the military intervention. The EU took the position that the Security Council was seized of the military and humanitarian issues and that the human rights situation should be discussed by the Commission under item 9 where the EU would introduce a country resolution on Iraq. The request for a special sitting was subsequently rejected by a majority of the Commission. This provoked a clear change in the atmosphere in the remaining weeks, even though tensions reappeared from time to time, especially during the final days, on certain contentious issues such as the draft resolution on sexual orientation.

The discussion on the situation in the Middle East did not monopolise the debate of the Commission, as it virtually did last year following the events in Jenin, despite the continuation of a critical situation on the ground. The debate in the plenary remained however emotional at times. Also, the "North – South divide" remained evident and regional solidarity, especially within the Asian and African groups, was intensified, in particular when dealing with country resolutions. At the same time there was some movement towards bridging gaps over a number of thematic issues.

The EU has been, in recent years, the participant with the greatest number of initiatives: this year it had 11 initiatives on country situations and 2 initiatives on thematic issues. Member States also introduced a number of national initiatives, most of which were actively supported by the EU as a whole.

The EU's visibility was increased inter alia both by its statements under the various agenda items and explanations of vote that the Greek Presidency delivered on behalf of the EU, as well as by its active participation during the debates with the special rapporteurs. Furthermore, the EU engaged in numerous formal as well as informal consultations with other delegations and groups prior to and during the session. The EU carried out demarches, both in Geneva and in capitals all over the world, to lobby in support of EU initiatives.

The EU statement under item 9 was shorter and more focused than in previous years and was in part dedicated to thematic issues. Compared to previous years when at times over 60 countries were mentioned, this year's statement singled out the worst offenders on human rights only. The Commission spoke on behalf of the European Community with a statement covering community related aspects of the death penalty, racism, the prevention of torture and the rehabilitation of victims of torture.



The resolutions introduced by the EU pertained to the human rights situation in the following countries and geographical areas: the Israeli settlements in the occupied Arab territories, the Republic of Chechnya of the Russian Federation, the Democratic People's Republic of Korea (DPRK, for the first time), the Democratic Republic of the Congo (DRC), Iraq, Burma/Myanmar, the Sudan, Zimbabwe, and one on Turkmenistan (tabled jointly with the US). Additionally, the EU put forward Chairperson's statements on Colombia and East Timor, and two thematic resolutions on the question of the death penalty and on the rights of the child.

The Death Penalty resolution included a number of new elements and was stronger than last year's text (see section 4.3.4). The goal of the EU was to obtain an increased number of co-sponsors in all regions to show that the momentum for the universal abolition of the death penalty is growing. Burden-sharing in demarches and increased EU coordination before and during the session contributed to a considerable increase of co-sponsors (75 instead of 68 in 2002).

The EU was also responsible this year for drafting the joint EU/GRULAC initiative on the Rights of the Child. This year's text contained a number of new elements, but was largely based on last year's resolution, on UNGASS wording and on the resolution of the last GA. Cooperation with the GRULAC was good. The EU also worked closely with the US which limited the subjects on which agreement could not be reached to only two paragraphs and thus allowed the US, having called for a vote on them only, not to call for a vote on the resolution as a whole, a result which was not possible at the last session of the General Assembly. The US dissociated itself from consensus through a statement, rather than with a vote

The resolution on the question of enforced or involuntary disappearances, introduced by France and co-sponsored by all EU member states, calls upon the open-ended working group on enforced or involuntary disappearances to continue the negotiations, started in January 2003, on a draft legally binding normative instrument for the protection of all persons from enforced disappearance. The EU expresses the hope that, within a reasonable timeframe, the Working Group will succeed in drafting a universal instrument which defines new norms to protect all persons from this abhorrent practice.

This year, for the first time, the CHR addressed the issue of human rights and sexual orientation when Brazil unexpectedly tabled a resolution calling on all states to promote and protect the human rights of all citizens, regardless of their sexual orientation. The EU strongly supported the initiative and quickly agreed to co-sponsor it. The EU was disappointed that delaying tactics on the part of a number of CHR members succeeded in preventing action on the resolution at this year's session..

The EU welcomed the fact that the CHR voted for its resolutions on Turkmenistan and North Korea, and adopted by consensus its resolutions on Burma/Myanmar and DRC. Unfortunately and despite heavy lobbying, three of the EU country resolutions were defeated, namely on the Republic of Chechnya, Sudan and Zimbabwe (the last one through a no-action motion). This meant that the UN human rights system lost one very important special procedure, namely the Special Rapporteur on Sudan. Despite the opposition of many developing countries against country resolutions, the EU remains convinced that such resolutions allow the United Nations to attract international attention to serious human rights violations and that they can have a protective and preventive impact for victims of human rights violations on the ground. The adoption of new initiatives on North Korea, Turkmenistan and Belarus are an encouraging signal in this respect.

Evaluation of its performance at the Commission of Human Rights, and the contribution the EU could make to improving the overall impact of this most pivotal UN body on the promotion and protection of human rights in the world, remains a continuous point of attention for the EU. Compared to previous years, this year's country initiatives were prepared well in advance in coordination with the relevant Council working parties, the texts were more focused, associated countries were closely involved, contacts with third parties as well as NGOs were increased, and all EU partners shared in the preparations and lobby efforts.

#### **4.2.3 International conferences: Community of Democracies**

The second Ministerial Conference of the Community of Democracies was held in Seoul on 10-12 November. More than one hundred countries participated in the conference. EU Member States participated individually in the conference as full members. The EU was invited as observer, as well as some international organisations. The "Seoul Plan of Action" and "the Statement on Terrorism" were adopted by consensus.

The main conclusions of the "Seoul Plan of Action" are on the essential:

- respect for human rights – civil, political, economic, social and cultural – including freedom of expression, freedom of press, and freedom of religion and conscience;
- access to and free exercise of power in accordance with the rule of law; the holding of periodic free and fair elections based on secret balloting and universal suffrage monitored by independent election authorities;
- freedom of association including the right to form independent political parties;
- separation of powers, especially an independent judiciary;
- constitutional subordination of all state institutions, including the military, to the legally-constituted civilian authority.

The "Statement on Terrorism" strongly denounced this scourge as a grave threat to democratic societies, to international peace and security as well as to humanity in general and indeed the very foundation on which democracies are built.

During the Conference, 4 ministerial round-tables were organised to discuss the following themes: (i) consolidating democracy institutions; (ii) regional cooperation to promote democracy; (iii) media and democracy; (iv) coordinating democracy assistance. The EU, represented by the European Commission delegation, participated in round-table (ii).

#### **4.2.4 The Council of Europe**

The European Union supports the continuing and essential role of the Council of Europe in upholding human rights standards and the rule of law and in promoting democratic stability on a pan-European basis. The EU recognises the Council's longstanding involvement in combating racism, discrimination and intolerance throughout Europe.

The European Convention on Human Rights and the Court of Human Rights remain the essential reference points for the protection of human rights in Europe. It is essential that all States comply with their formal undertaking in international law to abide by and fully execute the final judgements of the Court.

The EU acknowledges the ongoing process in the Council of Europe to optimise the effectiveness of the European Court of Human Rights. The continuing increase in individual petitions to the Court attests to the confidence the European public have placed in the Convention system and presents a major challenge to the work of the Court. The final report of the Council of Europe's Steering Committee on Human Rights, containing comprehensive proposals for guaranteeing the long-term effectiveness of the Court, was endorsed by the Committee of Ministers at the Council of Europe's Ministerial Session in May 2003. Further elaboration of those proposals, including the drafting of an amending protocol to the convention, is foreseen for the coming months.

The EU recognises that the enlarged Council of Europe is an important pan-European political forum, bringing together the EU and other European States and through which the EU projects and promotes its human rights and European values and policies among Council of Europe member states. The role of the Council of Europe complements EU common strategies towards a number of key states, in particular the Russian Federation but also Eastern and Central European countries. The human rights standards and values of the Council of Europe are also a reference framework for countries applying for EU membership. These include the intention to make Europe a zone free from the death penalty as well as the effective implementation of criminal justice in the fight against terrorism, while safeguarding individual rights.

In this regard, the entry into force of Protocol 13 to the European Convention on Human Rights and Fundamental Freedoms, concerning the abolition of the Death Penalty in all circumstances, is a further sign of Europe's commitment to and engagement with common human rights values.

The EU acknowledges the Council of Europe's call for Member States to ratify relevant Council of Europe treaties in the field of criminal justice to assist in combating international terrorism and welcomes the opening for signature of the Council of Europe Protocol Amending the European Convention on the Suppression of Terrorism, in May 2003. This protocol will strengthen the status of the original Convention without undermining human rights and freedoms.

The EU welcomes the recent accession of Serbia and Montenegro to the Council of Europe. The EU is committed to using the expertise and mechanisms of the Council of Europe to advance human rights standards across Europe and emphasises the importance of full Member State compliance with the obligations of Council of Europe membership. The EU expects that all Member States will continue to keep their institutions, legislation and practice fully in line with Council of Europe standards, and resolve any situation of conflict, by political means.

The EU continues to value the role of the Council of Europe in South Eastern Europe, in particular through the Stability Pact, its involvement in election monitoring and its expert cooperation and assistance programmes. The EU notes the continued mutual cooperation between the Council of Europe and the European Commission in funding and implementing joint programmes for cooperation and assistance in Central and Eastern Europe, based on the Joint Declaration on Cooperation and Partnership signed in April 2001.

The EU welcomes the role played by the Council of Europe Commissioner for Human Rights in promoting awareness and respect for human rights in all Council of Europe member states. The EU also values the role played by the European Committee for the Prevention of Torture in protecting Council of Europe Member States' citizens from torture and from inhuman or degrading treatment or punishment through its visits.

The EU continues to support the Council of Europe's important role in the efforts to reach a peaceful resolution to the conflict in Chechnya. The EU continues to expect Russia to provide concrete information on its follow-up action taken in response to human rights violations investigated by the Office of the Special Representative of the President of the Russian Federation on Human Rights in the Chechen Republic.<sup>1</sup>

The EU recognises the important role played by the Council of Europe in the field of the protection of national minorities in Europe through the monitoring mechanisms set out by the European Framework Convention on the protection of national minorities.

The EU also welcomes the efforts of the Council of Europe, throughout its activities in the field of social cohesion, human rights and education, to address discrimination against Roma and Sinti and advance their participation in public life.

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<sup>1</sup> The EU notes with interest the ECPT's public statement of 10 July on the Chechen Republic.

The EU pays great attention to the commitment of the Council of Europe in the field of gender equality and in particular its action on combating trafficking in human beings for the purpose of sexual exploitation and violence against women.

The EU continues to support the Council's cooperation with other multilateral organisations, in particular the EU and OSCE and notes that preparations for a Third Council of Europe Summit have begun.

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

For the European Union, the Human Dimension constitutes one of the major components of the OSCE's comprehensive concept of security. Therefore, the Union vigorously supports all activities in the framework of the Human Dimension, working to implement the OSCE normative "acquis" which is of key importance for the prevention of conflicts.<sup>1</sup>

The EU appreciates the human rights activities of the OSCE institutions specifically mandated with human rights issues, namely the Office for Democratic Institutions and Human Rights (ODIHR), the High Commissioner on National Minorities and the Representative on Freedom of the Media.

The Union is a major contributor to the OSCE, its field missions and institutions.

The mainstreaming of human dimension aspects into all activities of the Organisation is a recurring EU objective. Of particular relevance in this respect are the work of the Permanent Council and the work done on the ground by the OSCE field missions.

The EU therefore fully supports the work of the OSCE field missions in the human dimension. To this end the EU encourages the field presences to further strengthen their cooperation with the relevant OSCE institutions, in particular ODIHR, as well as other relevant human rights organisations present such as the Council of Europe and the OHCHR.

The EU considers it crucial to address Human Dimension issues also in individual participating states.

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<sup>1</sup> Documents pertaining to the Human Dimension of the OSCE and the OSCE in general can be downloaded from the home page of the OSCE: [www.osce.org](http://www.osce.org)

It addressed among others the human rights situations in Belarus and Turkmenistan, individual cases or problems in Kazakhstan and Uzbekistan, individual cases of the death penalty in the USA, Tajikistan and Uzbekistan, freedom of the media and freedom of opinion in Azerbaijan, Ukraine, Moldova, the Russian Federation, Kyrgyzstan and Montenegro, minority questions in Georgia, Croatia, Latvia and Estonia and the Hungarian Act on Hungarians living in neighbouring countries, elections in Armenia and Azerbaijan, election legislation in Albania and trafficking in human beings (including a specific case in Montenegro).

In December 2002 Participating States, seven of them EU Member States, invoked the so-called "Moscow Mechanism" under Paragraph 12 of the 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE in order to establish a fact-finding mission of rapporteurs to examine the developments in Turkmenistan after an alleged attack on the Turkmen President. As Turkmenistan did not nominate a rapporteur a report was finalised by the single rapporteur Prof. Emmanuel Decaux (France). After expiration of the confidentiality requirement the case was brought to the attention of the UN Commission on Human Rights at its 59th session.

The EU expressed its concern at the closure of the OSCE Assistant Group in Chechnya. Following extensive consultations with the Russian Federation on the renewal of the mandate of the Assistance Group, it was impossible to reach an agreement in acceptable terms. The EU was prepared to take into account Russia's concerns about the need to revise the mandate. On the other hand, the EU underlined that a number of core elements had to be kept in the mandate. These core elements included monitoring and reporting about the current situation as well as assistance activities with respect to the rule of law, human rights, democratic institutions and civil society.

The EU continues to attach particular importance to the annual Human Dimension Implementation Meeting, the Supplementary Human Dimension Meetings and the Seminar which contribute significantly to the OSCE human dimension work. The EU has consistently underlined the important role played by NGOs in human dimension activities and has welcomed the growing interest by NGOs in all OSCE Human Dimension Meetings. At the same time, the EU believes that these meetings should develop new dynamics so as to ensure their value.

As the EU sees the need for new dynamics in Human Dimension Meetings it welcomed the adoption, in May 2002, of the "Decision on modalities for OSCE-meetings on Human Dimension issues" to revitalise dialogue between States, international organisations and NGOs. The EU attaches importance to more relevant and efficient Human Dimension Meetings through rationalised agenda-setting and procedures, wider participation of NGOs, improved follow-up of recommendations (in particular by the Permanent Council and ODIHR), and through better timing of the meetings.

The EU works to improve the overall implementation of its programs of assistance and cooperation at regional level, as well as of those defined in the vast net of diversified agreements with almost all OSCE participating States. Benefits of partnership are offered to all those who are prepared and willing to pursue with the EU the promotion of development towards well-being and social solidarity, within open democratic societies, under the rule of law and in full respect for human rights, international law and OSCE principles and commitments.

### **Trafficking in human beings**

The EU welcomes the steps undertaken by the OSCE to combat trafficking in human beings, which affects women and girls to a very significant extent. Based on a decision of the OSCE Ministerial Council of 28 November 2000 the OSCE has been enhancing its efforts to combat trafficking in human beings, focusing on the primary responsibility of participating States, on international cooperation and on involvement of civil society, underlining as most important fields of action the areas of prevention, protection of victims and prosecution.

During 2002, an informal working group on Gender Equality and Protection from Trafficking in Human Beings elaborated an Action Plan on trafficking. The group worked in close cooperation with the Regional Coordinator on Trafficking Issues in South Eastern Europe, Ms Helga Konrad (Austria).<sup>1</sup>

In addition, the OSCE Secretariat amended its Code of Conduct for OSCE Mission Members to include provisions on human rights abuses, including trafficking in human beings, in order to prevent their involvement in the problem.

### **4.2.6 Stability Pact for South Eastern Europe**

The European Union continues to strongly support the Stability Pact, in which it has had a leading role since its adoption in Cologne on 10 June 1999. The founders, more than 40 partner countries and organisations, undertook to strengthen the countries of South Eastern Europe in 'their efforts to foster peace, democracy, respect for human rights and economic prosperity in order to achieve stability in the whole region.' The Stability Pact has worked towards this overall objective by promoting regional cooperation among the countries of the region as well as by assisting them to take steps in integrating into European standards.

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<sup>1</sup> The Action Plan was adopted at the OSCE Permanent Council on 24 July 2003.

The need to draw the SEE countries closer to the perspective of full integration to the European Union was highlighted already in the Pact's founding document. In its recent activities, the Pact has been successful in working towards closer complementarity with the Stabilisation and Association Process (SAP) of the EU.

The Pact's support to the development of the South East European Cooperation Process (SEECp) in its aspirations to be an authentic political voice of the region, with the countries of the region taking a lead role, is to be commended. Thus the Pact supports the EU's policy framework in furthering regional cooperation, fostering regional ownership and facilitating political coordination for the region and for the main international players.

The main part of the Pact's human rights-related work is done under Working Table I on Democratisation and Human Rights. Following the guidelines from previous Working Table I meetings, the Table now has two core objectives, Media and Local democracy/Cross-border cooperation. On Media, the Table promotes the position of the independent media in SEE and assists in bringing media legislation and its implementation in line with international standards. The Local democracy and Cross-border cooperation initiative seeks to bring about a functional approach to reconciliation in particular in border areas, also promoting civil society participation and social cohesion.

In line with the complementarity to the Stabilisation and Association Process, Table I focuses on supporting the SEE countries in meeting the Copenhagen criteria. Table I continues working on strengthening democratic institutions and the rule of law, promoting human rights and protecting minorities. Besides through the two core objectives, this work is done through the existing Task Forces on Human Rights and National Minorities, Gender, Education and Youth, and Parliamentary Cooperation.

The Pact's work on gender equality aims at increasing women's participation in politics and in taking lead roles on societal issues. The Gender Task Force has contributed to setting up national networks of women MPs and women mayors in the region, as well as training Roma women on political skills among other issues. In addition to the work with Roma women specifically, Table I is working on human rights and national minorities through encouraging the dialogue between local and national authorities and civil society on improving interethnic relations and enhancing the legal protection of human rights of all citizens, including various national minorities, based on European human right standards.

The Education and Youth Task Force is promoting education reform in the SEE countries, in line with European education policies in order to achieve common European education trends.



The Stability Pact's work on human rights is not limited to Table I, as Table III, Sub-Table on Justice and Home Affairs works as its core objective on migration and refugee matters through the Migration, Asylum and Refugees Regional Initiative, MARRI. The Initiative aims at supporting coordination for international action for return as well as building capacities and legal frameworks of the SEE countries to respond to future migration and asylum challenges.

In addition, the Sub-Table has a separate Task Force dealing with the fight against trafficking in human beings, which works towards strengthening cooperation between the SEE countries and streamlining efforts to combat human trafficking.

Related to the protection of human rights is also the new cross-table initiative, Reconciling for the Future, which aims at overcoming legacies of the past for the benefit of all citizens in the region, and drawing here extensively on the results delivered by existing Stability Pact initiatives and Task Forces.

The Regional Table as well as all Working Tables met in Cavtat, Croatia, in May 2003, where the progress of the Stability Pact's efforts in streamlining and focusing its work were commended. The Pact's work on the six core objectives, as well as complementing the SAP and assisting SEE countries fulfilling the Copenhagen criteria were endorsed.

### **4.3 Thematic issues of particular importance**

#### **4.3.1 Human rights and terrorism**

Terrorism is one of the most serious common challenges facing the international community. The European Union condemns all acts of terrorism as criminal and unjustifiable, irrespective of their motivation, forms and manifestations. The fight against terrorism remains a matter of the highest priority for the EU.

##### **a) Counter-Terrorism Committee**

The UN Security Council promptly and firmly reacted to the 9/11 events adopting, on 28 September 2001, resolution 1373. It established the Counter-Terrorism Committee, with the mandate to monitor implementation of this resolution. The European Union fully cooperates with the CTC. It has adopted a wide range of legislation in the areas covered by resolution 1373, including CFSP common positions which commit the EU as a whole to its full implementation and provide the basis for more specific measures aimed at cutting off terrorist funding.

The EU also provides technical assistance to third countries to enable them better to implement the provisions of resolution 1373, in fields such as police and law enforcement work, border management, and combating illegal arms trafficking. Indonesia, Philippines, Pakistan have been selected as pilot countries for a more concerted approach and needs assessment missions have identified specific areas for action in those countries.

#### **b) UN Conventions on Terrorism**

All member states are committed to ratification of the 12 UN Conventions. Since the Common Position 2001/930/CFSP of 27 December 2001 was adopted, substantial progress has been made towards the goal of full implementation of the 12 Conventions by all 15 Member states.

The European Union supports and actively cooperates with the work of the Ad Hoc Committee of the 6th Committee of the UNGA in its work towards the preparation of a Draft Comprehensive Convention on International Terrorism and the preparation of a Draft International Convention for the Suppression of Acts of Nuclear Terrorism, as a means of further developing a comprehensive legal framework of conventions dealing with terrorism.

#### **c) 57th session of the General Assembly**

Last autumn, the General Assembly revisited the exercise launched by Mexico earlier in the year, at the 58th Session of the Commission on Human Rights, under the title “Protection of human rights and fundamental freedoms while countering terrorism”. Consideration of the Mexican initiative, presented at too late a stage in the session of the CHR and wholeheartedly supported by the European Union, was eventually withdrawn and postponed until the 2003 session, once the sponsors realised that the number of proposed amendments would have adversely changed the nature of the text.

Taken up again at the General Assembly, Resolution 57/219 was again supported by the EU, which played an active role in its negotiation, and eventually adopted without a vote.

It affirms that “States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law”; encourages States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to consider the recommendations of the special procedures and mechanisms of the CHR and the relevant comments and views of UN human rights treaty bodies; and gives an active role to the UN High Commissioner for Human Rights

#### **d) 59th session of the Commission on Human Rights**

Mexico again presented its initiative on "Protection of human rights and fundamental freedoms while countering terrorism". The exercise, carefully prepared and well negotiated by the Mexicans and wholeheartedly supported again by the European Union, gathered widespread co-sponsorship and was adopted by consensus.

The resolution builds upon 57/219 and contains new elements, such as an invitation to the High Commissioner for Human Rights and to the Human Rights Committee to continue their dialogues with the Counter Terrorism Committee; and a request to the special procedures and mechanisms of the CHR and the UN human rights treaty bodies to consider the issue.

Also at the CHR, and as in previous years, Algeria introduced a resolution entitled "Human Rights and Terrorism", which the European Union, once again, could not support, due partly to the fact that the resolution does not distinguish between individual criminal acts and acts which are attributable to states. The EU holds the view that only states are legally responsible under international law for protecting human rights. However, acts of terrorism, which are well defined criminal acts, seriously affect the enjoyment of human rights.

#### **4.3.2 Civil and political rights**

Civil and political rights including freedom of thought, conscience and religion, freedom of expression, freedom from discrimination and freedom from torture underpin the strength and diversity of democratic societies. Respect for these rights is essential for the functioning of any democracy. They are guaranteed by Articles 18, 19, 20 and 21 of the Universal Declaration of Human Rights as part of the "foundation of freedom, justice and peace in the world" and are set out in more detail in the International Covenant on Civil and Political Rights (ICCPR).

As of June 2003, 149 states had ratified the ICCPR. The European Union supports the UN Secretary General's aim of universal ratification of the six core UN human rights treaties. The EU thus welcomes the growing number of states that have become parties to the ICCPR and urges all states to do so as soon as possible. Of course, ratification is only the first step. Treaties in themselves will not end human rights violations. Implementation is the key. All governments are urged to cooperate with UN mechanisms and to allow visits to their countries by Special Rapporteurs and the other special procedures. EU Member States always agree to such requests and encourage all countries to adopt the same policy.

The EU played a full part in the discussion of civil and political rights during the fifty-seventh session of the UN General Assembly (see 4.2.1 for further details). In addition, the EU worked hard in the Commission on Human Rights to secure strong resolutions upholding civil and political rights, including those on torture, the death penalty, extra-judicial killings, democracy, impunity and independence of the judiciary (see 4.2.2 for more information).

According to the Universal Declaration of Human Rights, everyone has the right to freedom of thought, conscience and religion. Article 18 of the International Covenant on Civil and Political Rights states: "Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching." However, reality can fall far short of the standards set down in international law. As noted by the Special Rapporteur on Religious Intolerance, in July 2001, "it is clear that no religion or belief is sheltered from violations and that no State or category of States, no religion or belief has a monopoly on intolerance". The EU takes violations of religious freedom very seriously, condemning all instances where individuals or groups are persecuted because of their religion or belief. During 2002, the EU made demarches to a number of states on issues relating to religious freedom, including Pakistan, Belarus and Georgia. At the CHR in 2002, the EU co-sponsored the Irish-tabled resolution on the Elimination of all Forms of Religious Intolerance which urged states to take all necessary action to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief.

As well as working in multilateral fora for improved civil and political rights throughout the world, the EU promotes these rights in practical ways through the European Initiative for Democracy and Human Rights (EIDHR). In 2002, the EIDHR's focus on civil and political rights included funding for projects in five specific thematic areas:

- support for the abolition of the death penalty;
- fighting impunity and promoting international justice;
- combating racism, xenophobia and discrimination against minorities and indigenous people;
- preventing torture and supporting the rehabilitation of victims of torture; and
- strengthening democratisation, good governance and the rule of law.

Other EU instruments and initiatives used to promote human rights and democracy in third countries (such as common strategies, joint actions, common positions, demarches, declarations, and political and human rights dialogues) are also means to encourage respect for civil and political rights. For example, the situation in Chechnya was discussed during the EU-Russia Summit on 11 November 2002. EU concerns were also raised during the EU-Russia Summit on 31 May 2003, during which a declaration was adopted expressing the hope that the recently started political process as well as economic and social reconstruction would promote the protection of human rights and lead to the restoration of the rule of law, and a genuine reconciliation in Chechnya.

The EU will continue to support actions and initiatives to implement the rights set out in the International Covenant on Civil and Political Rights, through its contribution to the UN General Assembly and Commission on Human Rights, use of instruments including political and human rights dialogues, and deployment of EIDHR and other project funds (see 4.1 for further details). Mainstreaming of human rights throughout all levels of EU policy decision-making will further strengthen the implementation of this commitment (see 2.4 for further details).

### 4.3.3 Economic, Social and Cultural Rights

Since the adoption in 1993 of the Vienna Declaration and Programme of Action, the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms has been specially reinforced. Therefore, equal emphasis is to be given to the realisation of economic, social, cultural, civil and political rights, bearing in mind that the full realisation of all economic, social and cultural rights may not always be achieved in a short period of time.

The EU believes that good governance and respect for the rule of law, including transparent, responsible, accountable and participatory government, are essential to the creation of conditions whereby everyone may enjoy his or her economic, social and cultural rights. In this regard solid democratic institutions responsive to the needs of the people and improved infrastructure are the basis for sustained economic growth, poverty eradication and employment creation. In this sense, and taking into account that poverty eradication and full enjoyment of economic, social, and cultural rights are interrelated goals, the European Union has reaffirmed its commitment to contribute towards the realisation of the target of the UN Millennium Declaration to halve the proportion of people whose income is less than one dollar a day by the year 2015.

In spite of the equal importance of all human rights in international instruments, including the two UN Covenants, the international community felt it necessary to reaffirm in the 1993 Vienna Declaration and Programme of Action that all human rights are universal, indivisible, interdependent and interrelated. The EU firmly supports this principle and recognises that the International Covenant on Economic, Social and Cultural Rights provides for many rights to be implemented progressively. However, the EU regrets that discrimination continues to affect the disadvantaged sectors of the population, including indigenous communities, women and children.

With regard to the Committee on Economic, Social and Cultural Rights, the EU recognises its central role in developing an greater understanding of the nature and content of the rights enshrined in the Covenant, thereby assisting States Parties in the fulfilment of their obligations. Furthermore, the Committee's General Comments are of great assistance to States in the fulfilment of their obligations under the Covenant. The European Union takes note of the adoption of General Comment No 15 on the right to water in which the Committee emphasised, *inter alia*, that this right falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most basic conditions for survival. Furthermore, the EU follows with interest work on developing a General Comment on the equal right of men and women to the enjoyment of all economic, social and cultural rights.

The EU believes that the plan of implementation adopted at the World Summit on Sustainable Development held in Johannesburg from 26 August to 4 September 2002, has to be outlined, as it emphasises that peace, security, stability, respect for human rights and fundamental freedoms, as well as respect for cultural diversity, are essential for achieving sustainable development and ensuring that sustainable development benefits all. The EU welcomes the decision on targets, timetables and partnerships to move speedily towards the realisation of economic, social and cultural rights.

The EU takes note of the Portuguese resolution on the realisation of economic, social and cultural rights, which recalls ECOSOC decision 2002/254 of 25 July 2002, setting up an open-ended working group with a view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights. The Portuguese resolution requests the working group to meet for a period of 10 working days, prior to the sixtieth session of the Commission, to further report to the Commission and to make specific recommendations on the matter. In this regard, the EU is of the view that, if a mechanism allowing for individual complaints, contemplated in the draft protocol, is to be established, it must be provided with a legal framework and adequate procedures to best ensure efficiency and avoid overlap with other existing mechanisms. The EU appreciates the work carried out by the Independent Expert and Member States will actively participate in the open-ended Working Group mandated to consider options regarding the elaboration of the optional protocol.

Finally, and in relation to the thematic mechanisms of the Commission on Human Rights regarding economic, social and cultural rights, it has to be highlighted that the mandate of the Special Rapporteur on the right to food and the mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, have been extended for three more years.

#### **4.3.4 Death penalty**

The European Union is opposed to the death penalty in all circumstances. It considers that abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights. Our position is rooted in our conviction in the inherent dignity of all human beings and the inviolability of the human person. The European Union is therefore committed to working towards universal abolition of the death penalty and is taking systematic action in this regard in its relations with third countries.

The European Union is pleased that the global trend is towards abolition of the death penalty. The UN Secretary General submitted a report on the question of the death penalty to the 2003 session of the Commission on Human Rights. According to this report, 77 countries had completely abolished the death penalty and 15 had abolished it for ordinary crimes (i.e. they retained it for crimes under military law or crimes committed in exceptional circumstances, such as wartime). The report considered 33 countries de facto abolitionist on the basis that they retain the death penalty but have not used it for at least ten years. 71 countries retained the death penalty.

Meanwhile, Amnesty International classifies a country as de facto abolitionist if it is believed to have a policy or deliberately established practice of not carrying out executions or has made an international commitment not to use the death penalty. Against these criteria, it reports that, at the end of 2002, 76 countries had abolished the death penalty for all crimes and 15 for ordinary crimes. 20 countries were de facto abolitionist. 84 countries retained the death penalty.

According to Amnesty International, there were at least 1,526 confirmed executions in 31 countries during 2002. At least 3,248 people were sentenced to death in 67 countries. The true figures are certainly much higher, given the difficulty in compiling statistics on the use of the death penalty in many countries such as China (which executes more people than the rest of the world put together). In this respect, it should be noted that Hands Off Cain for example estimates that at least 4,069 executions were carried out in 32 UN member states in 2002.

The European Union is encouraged by the steadily growing number of abolitionist countries. In this context, the EU warmly welcomes the recent abolition of the death penalty in Cyprus, Serbia and Montenegro and Turkey. We encourage all other countries which retain the death penalty to follow suit.

The EU welcomed the ratification during 2002 by Djibouti, Lithuania and South Africa of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). This brings the number of state parties to 49. In addition, Andorra signed the Protocol, bringing to 31 the number of countries which have signed the Protocol but not yet ratified it.

As of June 2003, all EU Member States had signed Protocol No. 13 to the European Convention on Human Rights, which abolished the death penalty in all circumstances, including wartime. 26 more member states of the Council of Europe had also signed it.<sup>1</sup>

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<sup>1</sup> The Protocol came into force on 1 July 2003.



### **The EU and the death penalty**

In 1998, the European Union drew up guidelines on the EU's death penalty policy. These include criteria for making "demarches" (or representations) to countries which retain the death penalty. Under these guidelines, the EU will make representations:

- (a) in individual cases where the use of the death penalty falls below UN minimum standards (such as executing pregnant women, mentally retarded persons or those aged under eighteen when the crime was committed); and
- (b) in situations where a government's policy on the death penalty is in flux (for example when they are considering lifting a moratorium, or de facto moratorium, on the use of the death penalty).

Under international law, where a country retains the use of capital punishment, it may only impose it for the most serious crimes and pursuant to a final judgement rendered by a competent court, following a legal process that conforms to the minimum procedural guarantees for a fair trial contained in Article 14 of the International Covenant on Civil and Political Rights. The European Union urges all states that have not yet abolished the death penalty to ensure full respect for these safeguards, including in proceedings before special tribunals or jurisdictions in response to situations of internal conflict or other exceptional circumstances. It further calls on all such states not to proceed to any execution, as long as all remedies, domestic or international, have not been exhausted.

Imposition of the death penalty on persons below 18 years of age at the time of the commission of the offence is prohibited by the Convention on the Rights of the Child, an instrument which has been almost universally ratified. The European Union thus strongly appeals to all states that still retain the death penalty not to impose it on juvenile offenders.

In the period covered by this report, the EU raised the question of the death penalty with the Governments of Burma, Palestinian Authority, Kuwait, Philippines, Japan, Nigeria, Tajikistan, Democratic Republic of the Congo, United States of America, Uganda, Sudan, Indonesia, Qatar, Belize, Barbados, China, Laos, Sri Lanka, Iran and India. The European Union also raised the issue in its human rights dialogues and troika meetings with countries such as the US, China, Japan and Iran.

At each session of the UN Commission on Human Rights in Geneva, the European Union tables a resolution on the death penalty. The resolution presented at the 59th session of the Commission was adopted by a wider margin than previously. It also attracted a record number of co-sponsors (75). Among others the resolution called upon all States to abolish the death penalty or impose a moratorium on its use, whilst also welcoming regional initiatives in this regard. In addition, the resolution urged those States which retain the death penalty to comply with the minimum standards established by the UN's Economic and Social Council in 1984. It further expressed concern that certain countries impose the death penalty in disregard of the limitations set out in the Covenant on Civil and Political Rights and the Convention on the Rights of the Child. The resolution specifically urged states not to impose the death penalty on persons suffering from mental disorders and to exclude mothers with dependent infants from capital punishment. It further stipulated that, where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering and shall not be carried out in public or in any other degrading manner. In this respect, states should ensure that any application of particularly cruel or inhuman means of execution, such as stoning, be stopped immediately.

This last point reflected a declaration issued by EU Foreign Ministers on 30 September 2002, condemning the use of stoning and other cruel means of execution and calling for an immediate end to such forms of capital punishment,.

#### **4.3.5 Torture and other inhuman, cruel and degrading treatment**

Torture and other inhuman, cruel or degrading treatment or punishment is outlawed under international law. It can never be justified under any circumstances whatsoever. There is indeed a very strong consensus against torture all over the world. Yet torture continues to prevail. So does the European Union's resolve to eradicate this phenomenon.

EU action against torture is based in particular on the set of Guidelines to EU Policy towards Third Countries on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>1</sup> The guidelines serve to identify ways and means to effectively work towards the prevention of torture and the rehabilitation of torture victims within the framework of the EU's foreign and security policy.

In order to ensure a more systematic implementation of the guidelines the Political and Security Committee adopted in December 2002 a working paper on the implementation of the guidelines. As a first step the EU Heads of Mission in all third countries have reported on possible patterns of torture in their countries of residence. On the basis of these reports as well as other reliable sources COHOM will in cooperation with the respective regional CFSP working groups decide on specific action for the prevention of torture. Such possible action is described in a statement issued by the Presidency on 11 December 2002.

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<sup>1</sup> The Working Paper can be accessed at: [http://europa.eu.int/comm/external\\_relations/human\\_rights/](http://europa.eu.int/comm/external_relations/human_rights/). Or: <http://ue.eu.int/newsroom/related.asp?BID=71&GRP=3614&LANG=1>

At the 57th UN General Assembly a major part of the EU statement under the agenda item concerning human rights situations was devoted to freedom from torture. The EU confirmed the universality of the ban on torture and urged all states to become parties to the UN Convention Against Torture. Governments and other authorities must not fall into the trap of answering terrorist attacks by disregarding fundamental human rights principles. The EU expects that any person, who encourages, orders, tolerates or perpetrates acts of torture is held accountable and brought to justice.

All EU Member States co-sponsored the resolution on torture tabled by Iceland. The resolution was adopted by consensus and consolidated the main contents of the more comprehensive resolution 2002/38 adopted by the UN Commission on Human Rights in 2002.

The Optional Protocol to the UN Convention Against Torture was adopted at the UN General Assembly in 2002 (see 4.2.2 for further details) .

The Protocol provides for independent visits to places of detention in order to prevent torture. The Protocol adopts a two track approach: an international Sub Committee under the UN Committee Against Torture will be empowered to visit any place of detention of its choice, like the system established for Member States of the Council of Europe according to the European Convention for the Prevention of Torture. Furthermore the State Parties to the Protocol are to establish – or maintain, as the case may be – independent visiting institutions at the national level. This approach is a new and powerful way to protect human rights within the UN system.

On 20 December the EU issued a declaration, which warmly welcomed the Protocol and called upon all states to consider signing and ratifying it as a matter of urgency.

At the 59th session of the UN Commission on Human Rights the EU dealt with the issue of torture in two statements. The absolute nature of the prohibition against torture was stressed and recent positive developments in different parts of the world were welcomed as well as the adoption of the Optional Protocol. The comprehensive nature of the fight against torture, including rehabilitation of torture victims, was underlined, and the EU referred to the proposal for a Council Regulation on trade in certain equipment and products, which could be used to inflict torture.

All EU Member States co-sponsored the omnibus-resolution on torture tabled by Denmark, which was adopted by consensus. Beyond confirming the contents of previous resolutions the resolution called upon states to consider signing and ratifying the Optional Protocol to the Convention Against Torture. It is significant that for the first time consensus was reached on a text, which explicitly calls upon states to consider adhering to the Protocol – in spite of the fact that final adoption of the Protocol in the General Assembly was by a vote in which 4 States voted against and 42 States abstained. The resolution also called for an independent evaluation of the UN Voluntary Fund for Victims of Torture.

The resolutions on torture adopted by the Commission on Human Rights call upon all Governments to take appropriate measures to prevent and prohibit the production, trade, export and use of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment. In a response to this call the European Commission has tabled a draft Council Regulation concerning trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, which is under consideration in the relevant EU bodies.

The European Community provides substantial funding for the prevention of torture and the rehabilitation of torture victims across the world. For the period 2002-2003, 25 million EUR have been allocated to torture rehabilitation centres and for the prevention of torture.

#### **4.3.6 The International Criminal Court and the fight against impunity**

The EU has always been very supportive of the idea of establishing a permanent international criminal court to deal with the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. In line with the positive EU stance, the European Commission has strongly supported efforts to make the ICC a reality.

All EU Member States and most associated countries have ratified the ICC Statute, which has entered into force on 1 July 2002. The ICC was inaugurated in The Hague with the swearing-in of its judges on 11 March 2003.

On 22 April 2003 the countries adhering to the Statute elected Mr. Luis Moreno Ocampo, an Argentinian lawyer, as the court's first chief prosecutor, charged with investigating and, when necessary, prosecuting genocide, crimes against humanity and war crimes.

Of great importance in the fight against impunity is the Resolution adopted on 25 April 2003 during the 59<sup>th</sup> session of the UN Commission on Human Rights, which recognizes the fundamental role of the ICC and calls upon States to continue to support its work.<sup>1</sup>

The EU's commitment to the ICC and the fight against impunity is reflected in the Common Position adopted in June 2001 and the Action Plan to follow-up on this common position agreed upon in May 2002. The objective of the Common Position, which was updated in June 2003, is to support the effective functioning of the Court and to advance universal support for it by promoting the widest possible participation in the Rome Statute (see 4.1.1).

One of the developments mentioned in the Common Position is the Council Conclusion of 30 September 2002 on the ICC, and the EU Guiding Principles annexed thereto, with regard to proposals for arrangements concerning conditions for the surrender of individuals to the Court. On this issue, the Common Position notes that the EU and its Member States will follow closely developments concerning effective cooperation with the Court in accordance with the Statute and in this context will continue, as appropriate, to draw the attention of third States to the Council Conclusions of 30 September 2002 and to the EU Guiding Principles.

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<sup>1</sup> (see [www.unhchr.ch](http://www.unhchr.ch) for more information).

International Justice and the ICC remains one of the four major priorities for the EIDHR. Since 1995, the European Commission has channelled around 13 million to a wide range of activities in support of the ICC through the European Initiative for Democracy and Human Rights (EIDHR). Also in consideration of the still reluctant attitude adopted by the US, the EU will continue to offer concrete assistance for efforts to bolster the work of the ICC and to ensure that it is strong enough to withstand the challenges.

#### **4.3.7 Election Support**

Election support continued to be a key component within the overall EU strategy to support democratisation in third countries. The EU considers that the free expression of the political will of the people, by a secret and equal vote through a universal, fair, transparent and participatory election process represents a cornerstone of an inclusive and sustainable democracy. During the period covered by this report, the EU continued its activity in the field of election support, building on the experience accumulated since the adoption of the Commission Communication on elections (April 2000) as well as the Council Conclusions (May 2001) and European Parliament Resolution (March 2001) on the subject. EU election support is divided into election assistance and election observation.

##### **Election Assistance**

Election assistance can take the following forms:

- Provision of material and financial support to national election management bodies (EMBs)
- Provision of technical assistance to EMBs
- Provision of technical assistance to electoral jurisdiction bodies
- Financing and training for electoral administrators and polling personnel
- Provision of financial or/and technical assistance for voter education via state bodies or civil society organisations
- Provision of financial and/or technical assistance to civil society organisations observing the elections
- Provision of financial assistance to international and regional organisations providing election legislation review and election legislation support
- Support to training courses for international and domestic observers and media monitors
- Support to capacity building for international organisations engaged in election support activities.
- Support to initiatives aiming at developing and disseminating international election standards

Election assistance to state authorities, including election management bodies, can be provided exclusively through development cooperation instruments, such as the EDF, ALA, CARDS and TACIS programs. These cooperation programs can also provide assistance to NGOs and other non-state actors active in the election field. Support has been provided, for example, to NGOs to carry out domestic observation activities or voter education campaigns. The European Initiative for Democracy and Human Rights (EIDHR) also provided election assistance to NGOs.

Among the election assistance actions funded by the European Commission in the period between July 2002 and June 2003, we should recall the following projects:

- Under the CARDS program the European Commission funded a project to provide voter education through the International Foundation for Election Systems Ltd in the former Yugoslav Republic of Macedonia, in preparation of the 15 September parliamentary elections. The total cost of the project was EUR 433, 189. For the same occasion, the CARDS program also funded a project conducted by the OSCE/ODIHR to provide training to security forces on election procedures for a total amount of EUR 61.857.
- Support to civil society organisations in Pakistan in the run-up to the October 2002 parliamentary elections. This project, funded under the EIDHR, (EUR 471,737) aimed at reinforcing NGO's capacity to contribute to the election process in fields like training for journalists, national minorities electoral participation and voter education.
- Technical assistance to the National Council of Elections in Madagascar. This project funded under the EDF (EUR 195,000) aimed at reinforcing the capacities of the EMB to elaborate efficient and transparent counting procedures.
- Election Support project to Nigeria (EUR 6,500,000). This project, funded under the EDF, which was implemented through the UN Election Assistance Division, aimed on the one hand to provide financial assistance to the Nigerian Election Commission to organise the April/May 2003 general elections and, on the other hand, to provide assistance to Nigerian NGOs active in domestic observation.
- Occupied territories of West Bank and Gaza. In preparation for possible elections in the Palestinian Territories and while awaiting for the establishment of the necessary conditions, the EC, under the MEDA programme, funded an election technical assistance team (EUR 125,000) and committed extra funds (EUR 10,000,000) to provide financial assistance once the process starts.
- The Election Support project for the Supreme Commission for Elections in Yemen (EUR 474,000), funded under the MEDA programme. This initiative was aimed at strengthening the capacity of the EMB in Yemen prior to the April 2003 parliamentary elections with a special focus on voter education. The project was managed by UNDP.
- In Jamaica the EIDHR funded (EC contribution EUR 198.158) a civil society initiative to organise an observation programme and conduct a voter education campaign in readiness for the 16 October 2002 parliamentary elections.

- In Ecuador also, the EIDHR funded a project (EC Contribution EUR 120,000) carried out by a local NGO on voter education and domestic election observation in connection with the October 2002 general elections
- In Mozambique the EIDHR funded a project (EC contribution EUR 720,000) aiming at achieving a higher degree of participation in the forthcoming elections and at raising the level of awareness and people's engagement in the democratisation process in Mozambique. The project will take place in the run up to the important election cycle in Mozambique (local elections in October 2003 and general elections in 2004).
- In Georgia, the EIDHR will also fund a project (EC contribution EUR 350,000) supporting a voter education programme through local NGOs in the run-up to the 2 November 2003 parliamentary elections.

A number of horizontal activities have been undertaken as well:

- The EC supported a project implemented by the OSCE/ODIHR, Legislation on Line, aiming at strengthening capacity of lawmakers to adopt legislation in line with international standards in the Balkans in a number of fields, including elections.
- Building on the experience accumulated during a previous initiative (EU Election Observation Project), the European Commission continued its support to election observers training through the Network of Europeans for Election and Democracy Support (NEEDS). NEEDS is a network of European NGOs and Research Centers with specific expertise in the election field. The NEEDS project (EC contribution EUR 1,6 million over a two-year period) aims at strengthening capacities of European and partner country observers. In the framework of the NEEDS project three training sessions for European Long Term Observers and two for Core Team experts were conducted. Globally 33 LTO and 45 experts were trained. This will allow the pool of trained observers and experts that are regularly recruited for EU Election Observation Missions to be widened. In addition, in June 2003 the first Forum for Domestic Observers was conducted, in conjunction with the OSCE/ODIHR and focusing on the OSCE region, which gathered some 30 NGOs from Europe and other regions. Further domestic observers fora, in Africa, Latin America and Asia, are planned in the next 12 months. Finally NEEDS is working on a compilation of existing election standards and best practices.

- In order to streamline the selection of EU Election Observers, the European Commission has developed an Internet Roster, which will accelerate this process and make it more transparent, impartial and homogeneous. The Roster was officially launched on 18 June 2003 and is located on the EuropeAid website. Observer candidates can enter their *curricula vitae* and obtain an individual access key, which enables them to view and update their files. Member States have access to the data of their nationals only and can propose these for the positions of Short-Term and Long-Term Observers. The Commission undertakes the final selection according to pre-defined search criteria. Core Team experts can also apply through the Roster. They will continue to be recruited directly by the Commission.

### **Election Observation**

Election observation consists of the following:

- Deployment of EU Election Observation Mission (EU EOM)
- Support to Election Observation Missions deployed by other regional organisations

All election observation activities are funded under the European initiative for Democracy and Human Rights (EIDHR).

#### **a) EU Election Observation Missions (EU EOM)**

Between July 2002 and June 2003, the EU deployed seven EU Election Observation Missions, one of which, in Cambodia, will complete its mandate in July 2003 (elections are scheduled for 27 July). In addition, the Commission committed funds to deploy two extra EOM, in the Palestinian Territories of West Bank and Gaza and in Nepal, when conditions allow the holding of elections. The EOM completed during the reporting period are the following:

- In Ecuador, the EU observed the presidential, parliamentary and local elections held on 20 October 2002 following an invitation from the Supreme Election Tribunal. The democratic institutions in Ecuador had been shaken in the previous years when two consecutive elected presidents had been forced out of office amid accusations of incompetence and corruption. The EU EOM arrived on 9 September and completed its activities on 7 December 2002, after observing the second round of the presidential elections on 24 November 2002. The EOM, led by MEP Emma Bonino, consisted of six Core Team experts and 16 Long Term Observers (LTOs). On election days, 40 extra Short Term Observers (STOs) were also deployed together with a delegation from the European Parliament. The total cost of the EOM was EUR 1,215,000. The EU EOM concluded that despite various irregularities, especially during the first round on 20 October, the elections in Ecuador could be considered acceptable in terms of electoral procedures and a further step in the consolidation of democracy.



- In Pakistan, the EU deployed an EU Election Observation Mission (EOM) following a verbal invitation extended by president Musharraf to EU External Relations Commissioner Mr Chris Patten to send an EU EOM to observe the 10 October general election. It was hoped that these elections would help re-establish Pakistan's democratic credentials following the 1999 military coup. On election day, a total of 88 mission members were involved in observing the polling and counting of votes. The total cost of the EU EOM was EUR 1.880.000. The EOM concluded that the holding of a general election does not of itself guarantee the establishment of democracy as true democracy must ultimately lead to good governance. The EOM concluded that there were flaws in the electoral process. The EOM also noted that the restoration of democracy in Pakistan was about the transfer of power from a military to a civilian administration and that the powers that have been reserved for the President and the national security council in the constitutional order raised serious questions as to whether or not this would happen. The EU EOM hoped that all Parties would work together to achieve the establishment of good governance and functioning democracy.
- Following an invitation from the government, on 6 November, the EU deployed an EOM in Madagascar in preparation for the 15 December 2002 parliamentary elections. These elections were particularly important to restore a full democratic regime in the island which had experienced contested presidential elections 12 months before, when former president Ratsirak left the country following street protest accusing him of masterminding an electoral fraud. The EOM was led by Tana de Zulueta (member of the Italian Senate) and consisted of 14 LTO and 46 STO. A delegation from the European Parliament led by John Corrie was also present on election day. The total cost of the EU EOM was EUR 974,000. The EOM concluded that the elections took place in a quiet environment as opposed to the difficulties experienced the previous year. Despite some isolated cases of intimidation, problems with the voters' list and the boycott of part of the opposition, the EOM gave a positive assessment of the election process.
- The EU deployed an EOM to Kenya, for the Presidential, National Assembly and Civic elections, on 27 December 2002. The EOM was led by Anders Wijkman MEP and followed an invitation from Kenyan Foreign Minister, H.E. Marsden Madoka, on 7 October 2002. The EOM was a concrete expression of the EU's efforts to support the consolidation of democracy in Kenya. The EOM cost EUR 1.8m and consisted of a Core Team of 9 experts who arrived in Nairobi on 26 November, 20 Long-Term Observers (LTOs) deployed throughout the country to follow the election campaign and administrative preparations for election. On 22 December, a further contingent of Short-Term Observers (STOs) also joined the EOM. On election day the EU EOM dispatched over 160 observers throughout Kenya to observe the whole electoral process and in particular polling and counting. Amongst these observers was a delegation of three members of the European Parliament led by Baroness Nicholson. A delegation of five members of the ACP-EU Joint Parliamentary Assembly, jointly led by Fode Sylla, member of the European Parliament, and Beatrice Kiraso, member of the parliament of Uganda, were also present as observers. The EOM noted that the elections marked an important step forward in the process of the development of democracy in Kenya. The people of Kenya had generally been able to cast their votes freely for the candidates of their choice. Political parties had been able to campaign actively in a far more peaceful and conducive atmosphere than in previous elections. The EOM concluded that notwithstanding some incidents of violence and organisational shortcomings, the overall conduct of the elections constituted an example for other countries in the region.

- The EU was invited in February 2003 by the Nigerian government to observe the conduct of the National Assembly (12 April), Presidential and Gubernatorial (19 April) and State Houses of Assembly (3 May). After the establishment of civilian rule in 1999, these elections were an important test for the state of democracy in Africa's most populous country. The EOM, led by MEP Max Van den Berg started its work on 11 March and closed operations on 20 May. The total cost of the EOM was EUR 2,715,000. It consisted of eleven core team members, 38 Long Term Observers (LTOs), and 62 Short Term Observers (STOs – 51 coming from Europe and 11 locally recruited in the country from the staff of EU Member States embassies). The European Parliament was present with a delegation of one MEP and one EP staff member during the Presidential and Gubernatorial elections on 19 April. The total strength of the mission on the three Election Days varied between 108 and 118 persons. The EOM issued a preliminary statement after each round of election. In its Final Report, the mission concluded that the elections were in general more peaceful than expected but that in a number of States, the conduct of the elections did not comply with Nigerian law and international standards. Moreover, systemic flaws and shortcomings marked the election process across the country, in particular with regard to the voters' list, ballot distribution and safeguards against multiple voting. Various political parties – mainly the established ones- were identified as being involved in malpractice. The election commission was unable to counteract this tendency, as a result of an insufficient level of technical and logistical preparation and the inadequate implementation of its own procedures. This combined to seriously undermine the transparency and regularity of the process.
- On 30 April 2003 the EU deployed an EOM to follow preparations and conduct of the 26 May 2003 referendum to adopt a new Constitution in Rwanda, which should replace the Transitional Fundamental Law, in force since 1994. The referendum was an important step towards completing the transition phase following the 1994 genocide and to establish democratic institutions in Rwanda. The deployment of the EOM, led by MEP Colette Flesch, followed an invitation from the Rwandan National Electoral Commission. The EOM consisted of a Core Team of five election experts based in Kigali and 12 Long-Term Observers (LTOs) deployed throughout the country and its total cost was EUR 379.684. The EOM noted that the referendum took place in good and peaceful conditions and that the shortcomings observed could in no way put into question the results. The EOM also expressed concern about the government recommendation to ban a political party and about the attacks addressed to some NGOs in the run-up to the referendum. The EOM concluded that if the new Constitution was a first step towards democracy, it was vital that, in view of presidential and parliamentary elections, scheduled to take place within six months, a legislation in line with international standards had to be adopted and properly implemented.

Over the period of this report the European Commission also undertook nine election Exploratory Missions to the Palestinian Territories of West Bank and the Gaza Strip, Nepal, Kenya, Madagascar, Nigeria, Cambodia, Rwanda, Guatemala and Mozambique. Member States election experts were associated with these missions which were tasked to make a preliminary analysis on whether the deployment of an EU EOM would be advisable, useful and feasible.<sup>1</sup>

#### **b) Support to Election Observation Missions deployed by other international organisations**

During the period covered by this report, the European Commission also supported the deployment of the OSCE Office for Democratic Institutions and Human Rights EOM to the former Yugoslav Republic of Macedonia for the parliamentary elections on September 15. These elections took place in the framework of the EU-brokered agreement, which followed the conflict between ethnic Albanian armed groups and Macedonian security forces in 2000/2001. The EU does not usually intervene in the OSCE region with election observation, as the OSCE/ODIHR maintains the leadership in this specific context. However, in consideration of the prominent role played by the EU in solving the FYROM conflict and the importance of the parliamentary elections for the stability of the region, the EC decided to exceptionally fund 100 short term observers and one core team member in addition to the observers seconded by Member States. The total value of the EC contribution was EUR 500,000.

#### **4.3.8 The right to development**

The European Union is committed to the right to development and will continue to be engaged in its realisation, as demonstrated through extensive national and community initiatives. The Union stresses that it is the primary responsibility of states to create national and international conditions conducive to the fulfilment of this right. The right to development is inextricably linked to both civil and political rights and economic, social and cultural rights. The denial of any human rights endangers progress on realising the right to development.

The EU is one of the main actors and the world's largest donor to the development process that seeks to achieve the Millennium development goals, in particular to halve the proportion of the world's people living in extreme poverty by 2015. This is a token of the Union's solidarity and of its commitment to eradicate poverty in the framework of a partnership which respects human rights, democratic principles, the rule of law and good governance.

The EU has actively participated in the process of elaborating a consensus around the right to development. Despite efforts from the EU and others to reach a consensual agreement, the resolution on the right to development at the 57th session of the General Assembly unfortunately could not be adopted by consensus. The EU has been seriously engaged and has actively participated in the deliberations of the open-ended Working Group on the Right to Development, which met for a two-week session in February 2003. The EU regrets that consensus could not be reached during the session.

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<sup>1</sup> For further information on EU Election Observation Missions please consult:

- [http://europa.eu.int/comm/external\\_relations/human\\_rights/eu\\_election\\_ass\\_observ](http://europa.eu.int/comm/external_relations/human_rights/eu_election_ass_observ)
- [http://europa.eu.int/comm/europeaid/projects/eidhr/elections\\_en.htm](http://europa.eu.int/comm/europeaid/projects/eidhr/elections_en.htm)

The EU welcomes the reaffirmation in this year's CHR resolution of the Agreed Conclusions of the third session of the Working Group on the right to Development, which the EU believes should constitute one of the main pillars of the future work of the Working Group. It is the EU's conviction that the Agreed Conclusions should pave the way for the concrete implementation of the right to development.

The EU has serious doubts as to whether the option of a legally binding instrument would provide an appropriate or practicable way forward. The Sub-commission has been asked to consider a range of options and their feasibility to advance the implementation of the right to development. It is essential that a thorough stocktaking of existing development programmes and activities at national, regional and international level take place in order to consider these issues seriously. The work of the sub-commission should build on, and not duplicate, substitute or renegotiate relevant existing consensus documents.

The EU welcomes the continued efforts by the Office of the High Commissioner for Human Rights to integrate human rights into the development process by developing a conceptual as well as an operational framework to bridge the gap between human rights and development within the United Nations Development Group. In particular the Office's work in the context of the Secretary-General's reform process in order to strengthen human rights-related UN actions at the country level is highly appreciated by the EU. The EU also welcomes the deepening dialogue between the High Commissioner for Human Rights and the World Bank on human rights and poverty reduction strategies at country level and in the Comprehensive development framework.

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

Article 13 of the Treaty establishing the European Community and Article 29 of the Treaty on European Union specifically mention the fight against racism and discrimination (see section 3.1.2 for further details). This internal EU priority is reflected in an equally determined manner externally. In fact, the EU has integrated the fight against racism into its Common Foreign and Security Policy, including in its enlargement process and in development assistance. The fight against racism and discrimination is therefore mentioned on a regular basis in the context of political dialogue with third countries.

The fight against racism, xenophobia and discrimination towards minorities and indigenous peoples is also one of the priorities of the European Initiative for Democracy and Human Rights. In 2002 around EUR 21 million was allocated to projects in all parts of the world. In this context attention is also paid to the issue of caste discrimination which played a prominent role in the World Conference against Racism, but did not feature in the final documents. A call for proposals addressed to NGOs and covering all these issues was launched by the Commission in April 2002.

### **At international level : United Nations**

The legal framework is essential in the fight against racism. The International Convention on the Elimination of all Forms of Racial Discrimination is the main international instrument in this area. The EU supports its universal ratification by 2005 and regularly makes appeals to this effect in its speeches to international human rights bodies. The EU also supports the Committee of experts responsible for monitoring the implementation of the Convention by the States which have ratified it. At the 57th session of the General Assembly, members of the EU were co-authors of the bi-annual Belgo-Slovenian resolution which tackles various aspects of this Convention and takes stock of its implementation.

The EU participates actively in negotiations on resolutions dealing with racism and racial discrimination, and follow-up to the Durban World Conference against Racism, in annual meetings of the Commission on Human Rights and the General Assembly. The EU has always worked for consensus on all issues covered by Durban, both during and after the Conference. The EU supports the follow-up to Durban as established by the Conference's Programme of Action and reaffirmed in General Assembly Resolutions 56/266 and 57/195. It also voted in favour of these resolutions which establish a general framework for follow-up to the Conference.

The EU entered negotiations on the follow-up to Durban in this spirit at the 59th session of the Commission on Human Rights, where consensus on this question was broken last year by the establishment of parallel and non-consensual follow-up mechanisms. The EU made some significant concessions and constructive proposals aiming to restore the terms of reference for the follow-up mechanisms in conformity with the provisions of the Durban Declaration and Programme of Action. Unfortunately, essential aspects of the European proposals were not taken on board. The EU was therefore not able to vote in favour of the text. The 59<sup>th</sup> CHR nevertheless represents a step in the right direction as it brought the various parties closer together. The EU will therefore continue on this path with its partners in the international community. It will spare no effort to help the follow-up to Durban regain the support of the whole international community, since consensus is an essential condition for the effective implementation of the commitments made at Durban.

The EU notes the recent appointment by the United Nations Secretary-General of five eminent experts responsible for ensuring the follow-up to the World Conference against Racism. In this respect, the last resolution of the Commission on Human Rights made it possible to bring the terms of reference of those experts in closer accordance with what was agreed at Durban.

The EU also supports the efforts of the Office of the High Commissioner for Human Rights in the fight against racism, and is following the work of its anti-discrimination unit with interest.

Finally, the EU also recognises the importance of the mandate of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. It regularly asks all States to cooperate with him. It also participated actively in the interactive debate with the Rapporteur at the last session of the Commission on Human Rights.

### **At regional level**

Many regional organisations have mobilised to combat racism and have developed their own activities. They have also developed synergies to strengthen their actions, which the EU encourages.

### **Council of Europe**

The EU supports the central role which the European Court of Human Rights plays in the implementation of the European Convention on Human Rights and the Protocols to it.

On 7 November 2003 the Committee of Ministers adopted the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. It had been opened for signature on 28 January 2003. Several EU Member States have already signed. This is an important step in taking this new means of communication into account as a potential means to disseminate racist messages.

The role of the European Commission against Racism and Intolerance (ECRI) also deserves to be highlighted. On 13 December 2002, ECRI adopted its General Policy Recommendation No 7 on national legislation to combat racism and racial discrimination. The EU also welcomes ECRI's joint organisation of activities with the European Monitoring Centre on Racism and Xenophobia.

### **OSCE**

With its commitment to the promotion of inter-ethnic relations, tolerance and the fight against discrimination, the OSCE also plays an essential role in combating racism. This commitment is mainly manifested through the Office for Democratic Institutions and Human Rights (ODIHR).

The issue of the fight against racism and discrimination is incorporated into general projects and tackled through specific projects. During the period covered by this report, these activities concentrated on the situation of the Roma and Sinti peoples, and on anti-Semitism. A supplementary meeting of the Human Dimension devoted to the Roma and Sinti was held on 10 and 11 April. Anti-Semitism was addressed at an OSCE conference on 19 and 20 June. The EU participated actively in both events, which will be followed by an OSCE conference on racism, xenophobia and discrimination on 4 and 5 September.

The EU also supports democratisation projects in twenty or so countries, with specific measures to combat racism and encourage respect for diversity.

#### **4.3.10 Rights of the child**

At the 57th session of the UN General Assembly in the autumn of 2002, the traditional EU/GRULAC resolution on the Rights of the Child was voted upon for the first time. The vote was called by the US because of its dissatisfaction with the references to the Convention on the Rights of the Child, the International Criminal Court and the Special representative on children in armed conflicts. However, the outcome of the extensive negotiations and the large number of countries that co-sponsored the text clearly showed that the resolution enjoys near-consensus among the member states. This was also evident in the result of the vote, with 164 votes for and 1 against.

The EU was responsible for drafting the joint EU/GRULAC initiative on the rights of the child at the 59th session of the UN Commission on Human Rights. The text was largely based on previous resolutions. Given that the resolution on the rights of the child was voted upon at the last General Assembly, the efforts of the main sponsors focused on preserving the traditional consensus on this resolution at the Commission on Human Rights. The efforts were largely successful as the overall resolution was adopted without a vote. After the adoption of the resolution the USA delegation declared that it did not agree with the provisions of certain paragraphs on which it had called for separate paragraph votes, namely the provision stating that the Convention on the Rights of the Child must constitute the standard for the promotion and protection of the rights of the child and the paragraph on the death penalty for juvenile offenders. No other member states of the Commission supported the call for the deletion of those provisions.

In its statement on the rights of the child to the UN Commission on Human Rights in April 2003, the EU emphasised the importance it attaches to the problem of children in armed conflicts. The statement underlined the EU's support for the UN Special Representative for Children and Armed Conflict and welcomed the initiatives taken by the UN Security Council in this area, most recently the adoption of Security Council resolution 1460 of 30th January 2003. That resolution calls, *inter alia*, on the parties to armed conflict identified as recruiting child soldiers<sup>1</sup> in the Secretary-General's report issued in December 2002 (S/2002/1299) to provide information on the steps which they have taken to halt such recruitment. The EU also urged all States to sign and ratify the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts and urged States to speed up the ratification of the Rome Statute of the International Criminal Court which includes, as a war crime, conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.

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<sup>1</sup> The list, annexed to the Report, was composed of 23 parties to conflict, including both governments and insurgency groups, in five conflict situations i.e. Afghanistan, Burundi, the Democratic Republic of Congo, Liberia and Somalia

As part of the process of follow-up to the General Affairs Council Conclusions on human rights and democratisation, in December 2002 the General Affairs and External Relations Council asked COHOM to consider the possibility of a limited strategy or guidelines, e.g. in the field of children in armed conflict. Subsequently, Human Rights Watch, UNICEF Brussels and UNICEF Innocenti Research Centre proposed convening a brainstorming meeting of children's rights specialists with a view to supporting the development of EU policy. The meeting took place in Florence, Italy, on 14 March 2003 with participants including several EU representatives, the UN Special Representative for children and armed conflict, UNHCR, ICRC, World Vision-UK, Save the Children and International Federation of Terre des Hommes. Recommendations included the importance of a strategy addressing pre-conflict and post-conflict issues, the need to mainstream the issue of children and armed conflict throughout the EU decision-making process and proposals for tools to operationalise the process.

It should also be mentioned that ECHO (the European Community Humanitarian Office) has identified child rights issues as one of the three priorities for its 2003 strategy. Furthermore, calls for proposals held under the European Initiative for Democracy and Human Rights (see Chapter 4.1 for details) "mainstreamed" children's rights with a requirement for all applications to include a perspective relevant to the rights of the child.

#### **4.3.11 Human rights of women**

Many steps have already been taken to promote and protect the full enjoyment of human rights by women since the Vienna Conference in 1993 which stated that the full enjoyment of human rights by women are an inalienable, integral and indivisible part of universal human rights. Particular emphasis was laid on the elaboration, implementation and monitoring of standards both nationally and internationally.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted in 1979 as a landmark agreement concerning human rights of women and has reached almost universal ratification with Member States as of mid-2003.

The Optional Protocol to CEDAW which was ratified by 51 States as of mid-2003 amends the monitoring mechanisms under the Convention by establishing an individual complaints procedure and an inquiry procedure analogous to other international human rights instruments.

Despite these encouraging signs of a growing world-wide consensus towards ratification of CEDAW, the EU observes with concern that the number of reservations to those instruments is also increasing. The member States of the European Union are committed to constantly review their own reservations with a view to their withdrawal. The EU calls upon all States to do likewise, as it is the EU's firm belief that international human rights standards cannot be modified, overruled or changed due to different environments of their application.



With regard to the full enjoyment of human rights by women, the tendency to justify human rights violations with customs or traditions is even more virulent, given the often structural discrimination against women. Female genital mutilation and crimes committed in the name of honour are just two of the most striking examples. To counter this, the relevant periodical UN fora serve to reaffirm the rights guaranteed by the Convention and other international instruments, calling upon all relevant actors to combat discrimination and all forms of violence against women and to ensure full and equal participation of women in all areas of society.

The Beijing Platform for Action (1995) together with the documents adopted at the 23rd UN Special Session of the General Assembly on "Women 2000: Gender Equality, Development and Peace for the 21<sup>st</sup> Century" (June 2000) formulated concrete goals and obligations for states to consolidate and guarantee the fulfilment of these rights.

### **57th General Assembly**

The third Committee of the UN General Assembly (GA), at its 57th session, dealt with nine resolutions on women's rights and women's issues under agenda items 102, 103 and 104, seven of which were adopted by consensus.<sup>1</sup> Two of these resolutions were sponsored by EU Member States: the resolution on "Working towards the elimination of crimes against women committed in the name of honour", initiated by the Netherlands and co-sponsored by 88 states; and the resolution on CEDAW, initiated by Sweden and co-sponsored by 119 states. These as well as one other resolution under agenda item 102 and one under agenda item 104 were co-sponsored by all EU Member States.

Relevant progress was achieved in several areas. The resolution under agenda item 103, "Implementation of the outcome of the 4th World Conference on Women and of the 23rd Special Session of the General Assembly entitled "Women 2000: gender equality, development and peace for the 21st century" recognised again the important role of women in conflict and conflict prevention in the context of the process initiated by Security Council resolution 1325, and noted in this regard the open debate entitled "peacekeeping and gender" held in the Security Council on 25 July 2002. The concept of gender mainstreaming was reinforced further in several resolutions. The ultimate adoption without a vote of the resolution on "Working towards the elimination of crimes against women committed in the name of honour", albeit after a process of serious deliberations with some United Nations member states, can be considered as a constructive step forward in this field of particular concern to the EU. The sometimes difficult discussions on the resolutions on CEDAW under agenda item 102 and on "the girl child" under agenda item 105 have again demonstrated the need for and the potential of the European Union to contribute actively to defending previous achievements and to ensuring further progress in the domain of human rights and women in all aspects of the United Nations system's activities and responsibilities.

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<sup>1</sup> See [www.un.org](http://www.un.org): resolutions under agenda items 102, Advancement of Women, 103, Implementation of the Outcome of the 4th World Conference on Women and of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century", as well as 105, Promotion and protection of the rights of children.

#### **47th Session of the Commission on the Status of Women**

During the 47th Session of the UN Commission on the Status of Women (CSW) in March 2003, discussions focused on its two main themes – women, information and communications technologies, and violence against women. With regard to the second, delegates emphasised the need to strengthen measures to tackle domestic violence, trafficking in women and sexual exploitation, as well as to educate government officials and set up government bodies to protect and promote women's rights.

The EU is deeply disappointed that the 47<sup>th</sup> session of the CSW failed to adopt the draft agreed conclusions on women's human rights and the elimination of all forms of violence against women and girls. The debate focussed on whether religion, customs or traditions may be invoked to justify violence against women. To the EU's deep disappointment, the acquis of the Beijing Platform of Action was challenged in this question.

Texts adopted at the 47th Session of CSW included agreed conclusions on women's access to the media and information and communication technologies, the importance of which should also be noted in the build-up towards the World Summit on the Information Society, as well as resolutions on the situation of women and girls in Afghanistan, co-sponsored by the EU, and Palestine, women and girls suffering from the HIV/AIDS virus, and the mainstreaming of a gender perspective into the policies and programmes of United Nations bodies.

The CSW also adopted a draft resolution on communications concerning the status of women. The CSW will continue considering the future work of the Working Group on Communications on the Status of Women at its 48th session. To assist that process to enhance the efficiency of existing monitoring mechanisms, a report providing information on existing communications mechanisms on women's issues within the United Nations will be submitted by the Secretary General.

To the EU's satisfaction, the participation of NGOs at CSW sessions is increasingly providing additional expertise on developments on the ground and thus fuelling the discussions in the forum. At EU level, the European Women's Lobby was well represented and very active during the 47th session. Cooperation between NGOs, the EU Presidency, Member States and the European Commission was very fruitful and constructive. In more and more Member States, NGO representatives are full members of the governmental delegations.

#### **59th Session of the Commission on Human Rights**

The 59th session of the Commission on Human Rights (CHR), held in Geneva from 17 March to 25 April 2003 dealt with two resolutions on women's rights under agenda item 12 on "Integration of the Human Rights of Women and the Gender Perspective":

- "Integrating the human rights of women throughout the United Nations system", sponsored by Chile and co-sponsored by all EU Member States
- "Elimination of Violence against Women", sponsored by Canada and co-sponsored by all EU Member States.

In addition, the 59th CHR adopted a resolution addressing the impact of the socio-economic environment on women under the item "Economic, Social and Cultural Rights". Mexico initiated a resolution "Women's equal ownership, access to and control over land and the equal rights to own property and to adequate housing" which was co-sponsored by all EU Member States.

Of these resolutions, all of which were adopted by consensus, the Canadian resolution on violence against women in particular demonstrated disagreements between CHR members concerning the scope of human rights of women. While consensus among all member States could be reached on the continuation of the mandate of the Special Rapporteur on violence against women, views differed considerably on issues such as sexual orientation, a woman's right to control her own sexuality and fertility and physical integrity.

In a speech delivered by the Presidency under agenda item 12 on behalf of the EU, the acceding States and a number of associated countries, the EU highlighted the issues that it considers of particular importance: the promotion of gender equality, the work of the Special Rapporteur on violence against women and girls, the elimination of all forms of violence against women and girls, and the failure of the 47th CSW to find a consensus on the draft agreed conclusions on women's human rights and the elimination of violence against women.

### **12th of the Commission on Crime Prevention and Criminal Justice**

The 12th session of the Commission on Crime Prevention and Criminal Justice (CICP) focussed on the issue of Trafficking in Human beings. Consensus was reached on a resolution "Strengthening international cooperation in preventing and combating trafficking in persons and protecting victims of such trafficking", which was sponsored by several EU Member States. The discussion showed that CICP member States had differing opinions on the obligatory character of measures of victim protection.

In a speech delivered by the Presidency, the EU highlighted the issues that it considers most important in the field of combating trafficking in human beings: the link between organised crime and trafficking, the necessity to include all actors of civil society in the fight against trafficking, victim protection and assistance and the tackling of root causes, which make women and children vulnerable for trafficking and which foster the demand for exploitation.

#### **4.3.12 Persons with disabilities**

The UN estimates that more than half a billion people in the world are disabled through mental, physical or sensory impairment. The EU welcomes steps taken in the international arena towards advancement of persons with disabilities. Although significant progress has been made, persons with disabilities are still unable to fully enjoy human rights on an equal basis. That is why the EU supports calls for an international convention to ensure the full enjoyment of human rights by persons with disabilities.

The UN Ad Hoc Committee established to consider proposals for an International Convention on the Protection of the Rights and Dignity of People with Disabilities held its second session in New York on 16-27 June. At the session a decision was adopted to establish a Working Group with the aim of preparing and presenting a draft text which would be the basis for negotiation at the third session of the Ad Hoc Committee.

The European Union has proclaimed 2003 as the European Year of Persons with Disabilities, to raise awareness of the rights of persons with disabilities to protection against discrimination and to full and equal enjoyment of their human rights. The European Commission provided 12 million Euro to support the Year, which was officially launched under the Greek Presidency in Athens on 26 January 2003.<sup>1</sup>

The rights-based approach is very much in line with the EU policy to combat discrimination implemented in accordance with Article 13 of the EC Treaty, and with the key objectives agreed by the Member States for the European Year of People with Disabilities in 2003.

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<sup>1</sup> Further information can be found at: <http://www.eypd2003.org>.

#### **4.3.13 Persons belonging to minorities**

The EU is committed to respecting fully the human rights of all persons, including those belonging to minorities, as set out under the International Bill of Rights. The EU Charter on Fundamental Rights calls for the protection of cultural, religious and linguistic diversity while the Treaty on the European Union upholds the principle of full enjoyment of rights and freedoms without discrimination, including association with a national minority, as set out in the European Convention on Human Rights (Article 14).

In the field of external relations, the EU works with regional and international bodies, such as the OSCE, Council of Europe and the UN, in order to promote and protect the rights of persons belonging to minorities. Greater awareness of minority issues has been brought about through legal standardisation in Europe, the enlargement of the European Union and the establishment of international instruments such as the Framework Convention for the Protection of National Minorities and the European Charter for Regional and Minority Languages of the Council of Europe.

The settlement of ethnic disputes is recognised by the EU as a vital factor for the successful maintenance of peaceful cohabitation and stability, particularly within the acceding and candidate countries to the European Union. The Stability Pact for Europe, signed in 1999, recognises this and pledges commitment to the protection of the rights of minorities. The Copenhagen criteria (1993), which define conditions for membership by the candidate countries, specifically highlight the issue of the protection of minorities. The measures taken by candidate countries in this regard are assessed on an annual basis in order to measure their progress towards accession.

On a practical level financial assistance for minority issues is provided for in the EU budget under the Phare and Access programmes and the European Initiative for Democracy and Human Rights (EIDHR). The EIDHR has designated the fight against racism, xenophobia and discrimination against ethnic minorities and indigenous peoples as one of its priorities for 2002-2004.

The EU continues to support the work of the OSCE and, in particular, the Office of the High Commissioner for National Minorities. At UN level the EU follows with interest UN Working Group on Minorities.

At the 59th session of the Commission on Human Rights, Austria tabled a resolution on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. This resolution requests the High Commissioner to examine existing mechanisms with a view to analysing their effectiveness and to identifying possible shortcomings in the protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, in particular with respect to conflict prevention. The resolution was adopted without a vote.

#### **4.3.14 Persons belonging to indigenous communities**

The European Union believes that concern for indigenous peoples<sup>1</sup> should be integrated into all levels of development cooperation, including political dialogue with third countries and that building partnerships with indigenous peoples is essential to fulfil the objectives of poverty elimination, sustainable development, and the strengthening of respect for human rights and democracy. The Council Resolution on indigenous peoples within the framework of the development cooperation of the Community and Member States, adopted on 30 November 1998, sets the main guidelines for support to indigenous peoples. On the basis of this resolution the Commission has drawn up a progress report on working with indigenous peoples, which was presented to the Council in June 2002. The report highlights the key recommendations of the Resolution as well as the opportunities and problems encountered in working towards these goals. Against this background, the report assesses the progress achieved so far and, importantly, the work which remains to be done.

The Commission co-funded with Danida, the Danish development agency, an interregional project led by the Rainforest Foundation and International Alliance of Indigenous and Tribal People of the Tropical Forests. The project aimed at the promotion of indigenous peoples' view of the development and implementation of the EU Resolution on indigenous peoples. The goal of the initiative was to follow up the implementation of existing EU development policy, in a direct dialogue between indigenous representatives and EU decision makers and to formulate proposals for improvement. It focused on case studies of EC development cooperation and its relationship with indigenous peoples. The selection and analysis of the cases were done by indigenous people and results were presented in Brussels in June 2002 during a three day event attended by indigenous representatives, European Union officials, governments representatives, academics, NGOs and experts. Keynote speakers at the conference included EU Commissioner for Development and Humanitarian Aid, Poul Nielson, Joaquim Miranda, Chairperson of the European Parliament's Development Committee and representatives of the current and future EU Presidencies, Spain and Denmark. The conference adopted general final conclusions and recommendations.

Following the report from the Commission, the Council on 18 November 2002 adopted conclusions on issues affecting indigenous peoples. In these conclusions the Council recalls its commitment to the 1998 Resolution and invites the Commission and Member States to continue implementing it.

Special emphasis was placed on coordination and coherence on the issue between the Commission and the Member States in the field of external assistance and in relevant international fora. The Council Conclusions further invited the Commission to ensure the follow up of the June 2002 conference, to ensure the training of its personnel on issues related to indigenous peoples in view of deconcentration, to include an analysis of the political, social, economic and cultural situation of indigenous peoples within partner countries in Country Strategy Papers (CSPs), to mainstream indigenous people's issues into EU's policies, practices and work methods and to integrate concerns of indigenous peoples into the political dialogue with partner countries. In order to ensure the implementation of the Council conclusions, the Commission has created an inter-service group, drawing together relevant units, and has launched the training of personnel on the issue, as part of a more general training on human rights. The issue has also been addressed during the mid-term review of the CSPs.

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

#### **4.3.15 Refugees and internally displaced persons**

Improving the plight of the millions of people worldwide who have been forced to flee their homes remains a high priority for the European Union. In many cases, armed conflicts and widespread human rights violations constitute the root causes of displacement. Therefore, the prevention and resolution of conflicts and the promotion of good governance and respect for human rights are essential policies in preventing displacement and allowing displaced people to return home in safety and with dignity. The EU, together with international partners, is strongly engaged in this regard. In some cases, however, the hope for improvement in the places of origin of the displaced are dim, and alternative durable solutions have to be sought, such as local integration or resettlement. Among the displaced, a high percentage are women and children. Frequently, persons belonging to minorities are particularly vulnerable to displacement.

In 2002, there were an estimated 12 million refugees worldwide who had fled their countries. The number of those displaced within their own homeland (IDPs) has been estimated to be as much as twice as high. While the total numbers of displaced persons barely changed during 2002, the number of refugees could be reduced in particular through the repatriation of 2 million Afghan refugees.

The 1951 Geneva Refugee Convention and its 1967 Protocol provide a strong legal framework for those who have fled abroad and cannot return due to a well-founded fear of persecution. All EU Member States are among the over 140 countries which have ratified these important instruments. For internally displaced persons, no comparable regime exists, as the primary responsibility for their protection and assistance rests with their own governments. When these governments are unable or unwilling to adequately fulfil this duty, however, the international community should provide the necessary support.

A fundamental role in the protection of and assistance to refugees falls to the UN High Commissioner for Refugees (UNHCR). The EU has, in recent years, been collectively the largest donor to UNHCR, and supportive of the efforts initiated by the High Commissioner to review the optimum profile of the organisation based on its mandate and its funding base. While this prioritisation has helped sharpen the operational focus of UNHCR, the funding situation has remained precarious and the demands on UNHCR have continued to grow. UNHCR's Global Consultations on International Protection finally led to the Agenda for Protection which was endorsed by UNHCR's Executive Committee in October 2002 (see also section 3.1.3). To make the Agenda as effective as possible, responsibilities will have to be prioritised and identified. The EU is firmly committed to this follow-up process. It also pays great attention to the "HCR 2004" process on new challenges, activities and the role of UNHCR within the UN system.

Numerous international and non-governmental organisations provide assistance and protection to the 25 million internally displaced persons in more than 50 countries worldwide. However, they do not, in many cases, have the necessary access to these populations. A central role of advocacy for this often neglected group is played by the Representative of the UN Secretary-General (RSG) for Internally Displaced Persons. The European Union and its Member States have from the very outset played a leading role in supporting the work of the RSG, the Guiding Principles on internal displacement which he compiled and the inter-agency Unit on internal displacement established in 2002. On the occasion of the tenth anniversary of the mandate of the Representative of the Secretary-General and in order to take stock of the progress made and to chart the future of the mandate, the governments of Norway and Austria hosted an international symposium in Vienna in December 2002.

During the 57th Session of the United Nations General Assembly, the European Union contributed actively to the deliberations relating to refugees, returnees and displaced persons. The Danish Presidency, on behalf of the Union, welcomed the efforts of the High Commissioner for Refugees to ensure that more is done to achieve sustainable solutions, which implies an increased emphasis on transitional needs in post-conflict and protracted refugee situations. The EU also expressed its support for the continued efforts within the UN system to ensure that the needs of IDPs are met in an effective and comprehensive manner, including through the establishment of a special unit for IDPs within OCHA, and through the dissemination and implementation of the Guiding Principles on Internal Displacement. The EU Member States actively contributed to and co-sponsored resolutions on the Office of the UN High Commissioner for Refugees and on assistance to refugees, returnees and displaced persons in Africa.

At the 59th Session of the UN Commission on Human Rights, all EU Member States co-sponsored a resolution on Internally Displaced Persons, presented by Austria, which welcomed the normative and institutional developments since this Commission began addressing the issue 10 years previously, while expressing concern at the persistent problems of large numbers of internally displaced persons worldwide, in particular the risk of extreme poverty and socio-economic exclusion, their limited access to humanitarian assistance, vulnerability to human rights violations, as well as difficulties resulting from their specific situation, such as lack of food, medication or shelter. Particular concern was expressed at the grave problems faced by many internally displaced women and children, including violence and abuse, sexual exploitation, forced recruitment and abduction.



#### **4.3.16 Human Rights Defenders**

The EU attaches the utmost importance to the work performed by all human rights defenders. These courageous individuals document human rights violations, seek remedies for victims of such violations through the provision of legal, psychological, medical or other support and fight against impunity of the perpetrators of these violations.

The activities of Human Rights Defenders have over the years become more effective. They have increasingly come to ensure greater protection for the victims of violations. However, this progress has been achieved at a high price: the defenders themselves have increasingly become targets of attacks and their rights are violated in many a country.

Through the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, the international community has recognised the importance and legitimacy of the action of human rights defenders, as well as the difficult situation they sometimes find themselves in, due to their courage and commitment to the cause of human rights and the need for their protection when at risk. The EU accords particular attention to the situation of women human rights defenders and to defenders exposed to particular risks, such as defenders of persons subject to discrimination because of their sexual orientation.

In its statement at the 59th Session of CHR, the EU welcomed the Special Representative's report to the Commission and expressed its concern for the violations of the rights of human rights defenders highlighted therein, which include, inter alia, executions, death threats, intimidation, arbitrary arrest and detention, prosecutions and defamation. The Union urged States to provide the necessary protection to human rights defenders against such violations, to combat impunity for those crimes, and to see to it that the victims and their families obtain redress. The European Union expressed its agreement with the Special Representative that counter-terrorism and security legislation should be consistent with States' obligations under international human rights law, and should not have a negative effect on or restrict the work of human rights defenders or target the defenders themselves.

Moreover, the Union noted with interest the recommendations of the Special Representative on strengthening the implementation of the Declaration, especially with regard to its mainstreaming through United Nations activities and cooperation between special procedures and treaty bodies. It also expressed its agreement with the recommendation that the "contextual space" in which defenders operate is of utmost importance and that international and regional efforts in the area of democratisation should put an emphasis on the role of human rights defenders.

At the 57th Session of the General Assembly, all EU Members-States co-sponsored a draft resolution, tabled by Norway and adopted without a vote, on the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms.

At the 59th Session of CHR all EU Member States co-sponsored a draft resolution, tabled by Norway and adopted without a vote, which extends the mandate of the Special Representative of the Secretary-General on human rights defenders for a further three years.

Both resolutions request all governments to take all necessary measures to ensure the protection of human rights defenders and urge them to assist, together with UN agencies and organisations, the Special Representative in the performance of her tasks, and to provide all information necessary for the fulfilment of her mandate. For its part, the EU stands ready to do so.

Again, the two resolutions request the Secretary-General to provide the Special Representative with all necessary human material and financial resources, in order to enable her to continue to carry out her mandate effectively.

#### **4.4 Situation of human rights in the world**

This section describes the response of the EU to developments in the situation of human rights in the various regions of the world. First, reference is made to the relevant resolutions adopted at the 57th session of the UN General Assembly and the 59th session of the Commission on Human Rights. Second, the statement on the situation of human rights in the world, presented on behalf of the EU by the Greek Presidency at the 59<sup>th</sup> CHR, is outlined. In this respect, it is worth mentioning that this newly structured statement under agenda item 9 focussed on the main aspects of the EU's human rights policy and addressed situations where violations of human rights remain a cause of deep concern for the EU.

##### **4.4.1 Europe**

The European Union warmly welcomes the abolition of the death penalty in Cyprus, Serbia and Montenegro and Turkey.

At the 59th session of the Commission on Human Rights the EU introduced resolutions on the situation of human rights in Turkmenistan and in the Republic of Chechnya of the Russian Federation. In addition, the human rights situation in Turkey, Cyprus, Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Croatia, Serbia and Montenegro as well as Belarus, Kazakhstan and Uzbekistan was addressed in the EU's statement on agenda item 9 on the question of the violation of human rights and fundamental freedoms in any part of the world.

The EU welcomed the progress achieved in the countries of South Eastern Europe in the field of human rights and took note, in particular, of the ongoing process in Albania of civilian control over the police; the well-organised and fair elections held in October 2002 in Bosnia and Herzegovina and the movement towards strengthening of state level institutions in that country; the legislative steps taken in FYROM towards the implementation of the OHRID framework agreement, and the consequent promotion of the rights of persons belonging to minorities; the adoption, in Croatia, of the constitutional law on national minorities in December 2002; the abolition of the death penalty in Serbia and Montenegro, as well as Serbia and Montenegro becoming the 45th member state of the Council of Europe.

The EU called for additional efforts in South Eastern Europe in order to effectively enforce international human rights standards for persons belonging to minorities at all levels of administration, including in Kosovo. The European Union further urged the states concerned to consolidate the rule of law by providing effective judicial mechanisms, which protect the rights and fundamental freedoms of all citizens, regardless of their ethnic origin and linguistic or religious affiliations. Moreover, the EU urged all states in the region to cooperate fully with the International Criminal Tribunal for the Former Yugoslavia. The EU expected a clear commitment to actively addressing the issue of the return of refugees and IDPs. The EU called on the governments concerned to cooperate and do their utmost to resolve the outstanding issues. To facilitate the return process, a systematic regional exchange of information should be considered.

The human rights situation of Belarus was addressed in the CHR resolution presented by the US. All the 15 EU countries co-sponsored the resolution, which was adopted by vote. The resolution expressed deep concern at reports on the forced disappearance and/or summary execution of three political opponents of the incumbent authorities and of a journalist, about reports of arbitrary arrest and detention and about persistent reports of harassment of non-governmental organisations, opposition political parties and individuals engaged in opposition activities and independent media. The resolution urged the Government of Belarus to ensure that all necessary measures are taken to investigate fully and impartially all cases of forced disappearance, summary execution and torture and that perpetrators are brought to justice before an independent tribunal and, if found guilty, punished in a manner consistent with international human rights obligations. The resolution further urged the Government to cooperate fully with all the mechanisms of the Commission on Human Rights, including through extending invitations to the Special Rapporteurs.

In the CHR statement the European Union regretted the lack of willingness of the leadership of Belarus to implement democratic reforms. The EU deplored the fact that censorship, harassment of independent media and repression of journalists, trade unions and other democratic forces continue unabated. Furthermore, the EU remained deeply concerned about the fate of victims of forced disappearances and the lack of readiness by the authorities to fully investigate those cases and punish those responsible. The EU also regretted that the electoral code, under which local elections were recently conducted, had not been amended in line with past recommendations of the Office for Democratic Institutions and Human Rights of the OSCE. The EU welcomed the fact that the central electoral commission of Belarus had invited ODIHR to discuss a reform of the electoral legislation with a view to the parliamentary elections in September 2004.

At the 59th session of the CHR the European Union engaged in negotiations with the Russian Federation in order to achieve a Chairperson's statement on the situation of human rights in the Republic of Chechnya of the Russian Federation. The negotiations failed and the EU decided to table a resolution on Chechnya. The tabled resolution expressed deep concern at the reported ongoing violations of international human rights law and international humanitarian law in the Republic of Chechnya of the Russian Federation, including forced disappearances, extrajudicial, summary or arbitrary executions, torture, ill-treatment, arbitrary detentions, attacks against humanitarian workers, continued abuses and harassment at checkpoints and during sweep operations. The resolution also called upon the Government of the Russian Federation to take urgently all necessary steps to stop and prevent violations of human rights and international humanitarian law and to ensure that all alleged violations are investigated systematically, fully and promptly and are punished. The resolution was defeated by 15 in favour, 21 against while 17 abstained at the vote.

The human rights situation of Kazakhstan was addressed in the EU statement at the CHR. The EU remained concerned at the President's control of the legislative process and of political life in Kazakhstan. It regretted the fact that the opposition is hindered in many ways, including prosecution of opposition leaders on questionable grounds. The EU expressed its concern at the violations of the freedom of expression, including the threats and assaults against and prosecutions of journalists and members of their families. It welcomed, in this regard, the cooperation offered by Kazakhstan to provide access to case materials regarding the trial of an opposition journalist and activist to professional jurists sent by OSCE.

The EU welcomed the positive steps undertaken by Turkey in the field of human rights since August 2002. The EU will support any further measures towards the progress needed, as well as effective implementation of human rights and prosecution of violations, in order to consolidate the Turkish government's commitment to change.

For the first time, jointly with the US the EU tabled a resolution on Turkmenistan. In the resolution grave concern was expressed, inter alia, at restrictions on the exercise of the freedom of thought, conscience and religion and at the persistence of a governmental policy based on the repression of all political opposition activities. The resolution also expressed deep concern at the discrimination by the Government of Turkmenistan against minorities, as well as at the manner in which the elections of 6 April 2003 were organised and conducted, which did not represent a free and fair process. The resolution, adopted by vote (23 in favour, 16 against, 14 abstained), called upon the Government of Turkmenistan to ensure full respect for all human rights and fundamental freedoms, in particular the freedoms of expression, religion, association and assembly, the right to a fair trial by an independent and impartial tribunal established by law and the protection of the rights of persons belonging to ethnic and religious minorities, and to take the necessary measures to refrain from subjecting conscientious objectors to imprisonment.

The European Union also addressed the human rights situation in Uzbekistan in its statement at the Commission on Human Rights. The EU, inter alia, welcomed the visit by the Special Rapporteur on torture to Uzbekistan in December 2002. The EU remained concerned by his conclusions that torture or similar ill-treatment is systematic in the country and urged the authorities of Uzbekistan to fully implement the recommendations made by the Special Rapporteur without delay. The European Union was also deeply concerned at other continuing human rights violations and abuse of power by Uzbekistan's law enforcement authorities, including arrests of human rights defenders and regretted the restrictions imposed on the freedoms of expression and association as well as the violations of the right to freedom of religion or belief. The EU urged Uzbekistan to make the necessary reforms to its justice system to prevent such abuses.

#### **4.4.2 Asia**

The EU welcomes the steps taken by the Afghan Transitional Authority to improve the human rights situation in Afghanistan, such as the accession to the Rome Statute on the International Criminal Court, the establishment of an independent human rights commission and the ratification of the Convention on the Elimination of all Forms of Discrimination Against Women on 5 March 2003. The European Union acknowledges the efforts of the Afghan Transitional Authority to guarantee an accountable constitutional process leading to the adoption of the new Constitution by the Constitutional Loya Jirga in autumn 2003. The EU is concerned that the environment is not yet ready for transitional justice to be rendered by the national Human Rights Commission. Despite encouraging signs of progress, the situation of women in Afghanistan is still characterised by a volatile security situation, domestic violence and arbitrariness by law enforcement officials. The EU expects, however, that the new constitution will allow legal and social reforms targeting those shortcomings. The European Union explicitly encourages the EU Special Representative in Afghanistan to continue to point out those areas that remain of concern to the EU in the relevant fora.

While recognising that the government of Bangladesh has taken determined steps to tackle the deteriorating law and order situation, the EU has stressed its concern about human rights violations especially in the course of the army's deployment in an anti-crime drive starting in October 2002. The EU is also closely monitoring the situation of NGOs in Bangladesh, asking for sufficient room for them to contribute constructively to the development of the country.

Once again, in a statement supported by the EU at the Development Forum in Dhaka on 17 and 18 May, the interrelation between poverty eradication and the rule of law was underlined. To this end, Bangladesh was urged to actively engage in the establishment of an independent human rights commission and the office of an ombudsman.

The European Union welcomed the positive developments in the human rights situation in Cambodia in spite of some serious difficulties such as a weak rule of law, corruption and the persistence of a climate of violence in some areas. The decision by the EU to send an election observation mission to observe also the national elections in Cambodia on 27 July 2003 demonstrates its continuing commitment to the promotion of democracy in Cambodia. The EU welcomed the signing of an agreement between the United Nations Secretariat and the Cambodian Government regarding the establishment of a Khmer Rouge Tribunal on 6 June 2003. The EU expressed the hope that the future tribunal will render justice to the Cambodian people and prevent further atrocities.

While recognising significant improvement in the situation in China due to the transformation of the economy and the ongoing reform of the judicial and legal system, the EU remains concerned about continuing violations of human rights. The widespread use of the death penalty and torture as well as the continued system of administrative detention, significant shortcomings as concerns freedom of expression, assembly, association and religion, freedom of speech and press, ongoing violations of the human rights of pro-democracy activists, proponents of free trade unions and followers of Falun Gong, and the repression of persons belonging to ethnic minorities in Tibet and Xingjiang continue to figure high on the EU agenda vis-à-vis the Chinese government. The EU appreciates the cooperation of China in the EU-China human rights dialogue process, but expects the dialogue to produce measurable results and progress on the ground – not least with regard to individual cases and China's stance towards UN special procedures.

The EU welcomes the achievements by East Timor in building and consolidating a democratic government and safeguarding human rights, in particular by accession to the relevant international instruments but also through efforts to address human rights abuses during the period before independence. The EU calls on Indonesia to cooperate with East Timor in these efforts in order to further strengthen trust and justice as the foundations of good-neighbourly relations between both countries. At the 59th CHR, the EU took the initiative for a Chairperson's Statement, in which those improvements were acknowledged.

The European Union statement at CHR welcomed continuing efforts in Indonesia concerning, inter alia, legislation on the establishment of a Constitutional Court and a Judicial Commission and preparations for appointments to an Anti-Corruption Commission, as well as a number of trials of human-rights-related offences regarding East Timor and Aceh. However, progress regarding these measures on judicial reform has been slow, and the results of the court proceedings, especially in relation to events in East Timor, have been largely disappointing. The human rights situation in Aceh and Papua remains precarious. The EU considers progress in judicial reform as crucial both in Indonesia's democratic reform process and in the effort to regain the confidence of international investors and trading partners. Credible judicial sanctioning of human rights abuses remains an indispensable element of democratic renewal in Indonesia and of particular importance in relation to winning local acceptance and support for the Special Autonomy arrangements for Aceh and Papua.

Violence and the human rights situation in Jammu and Kashmir remained a matter of concern for the European Union. Terrorist attacks in the state and elsewhere were repeatedly condemned. The European Union welcomed the completion of Assembly elections in October 2002, with many candidates and voters using their democratic right to elect local representatives despite terrorist violence and intimidation. The European Union expressed its hope that the human rights situation in Kashmir would improve following the elections. The re-establishment of high-level political contacts between India and Pakistan in April 2003 was warmly welcomed by the European Union as a possible starting point for resolving outstanding differences between the two countries, including Kashmir, in a peaceful way.

The EU stated that the situation of human rights in Malaysia had improved, yet raised serious concerns about the fairness of judicial proceedings under the anti-terrorist legislation.

A resolution on the situation of human rights in Myanmar, initiated by the EU, was adopted by consensus at the 59<sup>th</sup> CHR. The resolution expressed concern over arbitrary executions, torture and forced labour, lack of independence of the judiciary from the executive and wide disrespect for the rule of law, denial of basic political rights (e.g. freedom of speech), the huge amount of political detainees, widespread discriminatory practices against persons belonging to ethnic and religious minorities. The resolution also highlighted a continuing pattern of gross and systematic violations of human rights and a lack of demonstrable and substantial commitment towards national conciliation and restoration of democracy in Myanmar.

The arrest of Aung San Suu Kyi following a violent incident, organised by elements of the regime, that occurred on 30 May 2003 near Mandalay, resulted in the death, bodily harm, detention and disappearance of national league for democracy members and supporters. The EU strongly protested against the measures taken by the Burmese authorities to oppress the political work by ASSK and her National League for Democracy. In a number of EU Member States, the Ambassador of the Union of Myanmar was summoned to the Foreign Ministry. The EU decided on 16 June 2003 to revise its Common Position on Myanmar, further strengthening EU restrictions aimed at the military rulers of the country.

The CHR resolution did however note some positive developments, including continuing co-operation with the International Committee of the Red Cross and slight improvements in the conditions of detention, the visit by an Amnesty International delegation to Myanmar, and the agreement to an ILO facilitator in Myanmar.

The European Union remained concerned about the serious state of human rights in Nepal, while unreservedly condemning the systematic "Maoist" campaign of killings, harassment and destruction. Human rights violations by the Security Forces were also noted with deep concern. In this context, the cease-fire in January 2003 and the opening of negotiations between the conflicting parties in April 2003 were highly welcomed. The EU had offered assistance in the scheduled election process – which in the end did not come about – and followed the government's handling of refugees from Bhutan and Tibet closely. The EU stresses the need for the implementation of a development agenda aiming at tackling poverty, exclusion and discrimination, poor governance including corruption as the root causes of conflict.

The EU deplores the human rights condition in North Korea. The EU is also deeply concerned about continued reports of serious violations of civil and political rights and the lack of respect for economic, social and cultural rights. The Union therefore presented a draft resolution to the UN Commission on Human Rights which was adopted on 16 April 2003. The resolution expresses grave concern about the precarious humanitarian situation in the country, reports of systemic, widespread and grave violations of human rights, including torture and other cruel, inhuman or degrading treatment or punishment, restrictions of fundamental freedoms, discrimination against disabled children and the violation of the human rights of women. Cooperation of the North Korean government with the UN system in the field of human rights, in particular with the relevant Special Rapporteurs and Working Groups, remains an important issue for the EU. The EU will continue to follow the situation of human rights in North Korea very closely with a view to a renewed assessment at the next session of the UN Human Rights Commission. The EU urges the North Korean authorities to provide greater access and improve working conditions for humanitarian international organisations so they can carry out their work in the country.

In Pakistan, the European Union welcomed the completion of multi-party elections to national and provincial assemblies in October 2002, which were monitored by a European observation mission on the ground and which marked a first step in the transfer of power from the military to a civilian administration. However, the EU expressed its concern about the protection of religious minorities – especially in the light of attacks on Christian and Shiite worshippers – and the frequent abuse of hudood ordinances and the blasphemy laws, citing a number of individual human rights cases. Gender discrimination and the abolishment of the death penalty are also a focus in the continuing dialogue with Pakistani authorities. The practice of so called "honour killings" continues to cause concern.



Security concerns did not make it advisable to send a European Union observation mission to the national elections in Papua New Guinea in mid-2002. Reports about considerable shortcomings in public safety during the elections later on confirmed these concerns.

Regarding the grave internal security problems including an almost non-functioning judicial sector in the Solomon Islands, no progress has been made during the last twelve months. The European Union continued to observe the situation with great concern.

The European Union reiterated its support for the peace process in Sri Lanka, urging all parties to the conflict to respect the principles of pluralism and human rights, and acknowledging – on the occasion of the first anniversary of the cease-fire agreement – efforts that have been made to implement the agreement and the progress made in the peace talks. The EU co-chaired the Tokyo Conference for Reconstruction and Development of Sri Lanka, 9-10 June, where it called for an equitable and lasting political settlement based upon respect for human rights, democracy and the rule of law.

Vietnam's adherence to international human rights standards and norms remains variable. On the one hand, Vietnamese Government efforts to improve the people's social and economic rights remain impressive. On the other hand, serious concerns remain about the Vietnamese authorities' respect for some civil and political rights. In particular, the situation of freedom of expression and of the media has worsened in recent months. Further concerns include the wide use of the death penalty, the lack of an independent and fair judicial system and a lack of democracy and transparency throughout the political system. The EU welcomed the adoption of the Public Administration Reform Master Plan and the elaboration of an action plan for legal reform, based on the Legal Needs Assessment.

#### 4.4.3 Africa

At the Third Committee of UNGA 57, the resolution on the situation of human rights in the Democratic Republic of Congo, which was adopted by vote, expressed concern over recent and persistent violations of human rights and fundamental freedoms as well as the negative impact of the conflict on the civilian population, in particular in the eastern part of the country. All parties to the conflict were urged fully to implement the provisions of the Lusaka Agreement and to engage in an all-inclusive political dialogue, with a view to achieving national reconciliation. The Government was called upon to address the situation of IDPs and refugees within the RDC and across its border, to continue to create the conditions for the deployment of the Mission of the UN and to promote the necessary reforms in order to fully implement its commitment to democratisation.

At the 59th CHR the resolution was adopted without a vote, following a constructive dialogue with the DRC and other African Group countries. The resolution renewed the mandate of the Special Rapporteur, welcomed the positive developments in the country, and addressed areas of continued human rights concerns throughout the territory, including the adverse impact of the conflict on the civilian population, in particular in the eastern part of the country, and the situation of IDPs and refugees. It also expressed support for the activities of the OHCHR in the country and requested the Government of DRC to continue to ensure the safety and freedom of movement of the UN Mission's personnel and associates. Following the commitments made in Lusaka by the parties to the conflict, namely the articles concerning Inter-Congolese dialogue, it called on the Government to promote judicial reforms and democratisation.

At the Third Committee of UNGA 57, the resolution on the situation of human rights in Sudan was adopted by vote. At the 59th CHR, the EU also introduced a resolution on Sudan. The EU made extensive efforts to engage the Sudanese in a dialogue, which was not possible. Sudan requested a vote, which caused the resolution to be rejected. Both at UNGA and at CHR, the draft resolutions welcomed some positive developments, while expressing deep concern at the impact of the armed conflict on the situation of human rights in the country and its adverse impact on the civilian population, in particular women and children. All parties to the conflict were urged to put in place a global, lasting and effectively monitored cease-fire as a first step to a negotiated settlement to the conflict, to respect and protect human rights and fundamental freedoms, to fully respect international humanitarian law, and to grant full, safe and unhindered access to international agencies and humanitarian organisations. The Government of Sudan was urged to prevent all acts of torture and cruel, inhuman or degrading treatment, to prevent and stop abduction of women and children, to put an end to the aerial bombardment of civilian and humanitarian targets, to address the problem of IDPs and to pursue its dialogue with the OHCHR.

At the 59th CHR the EU introduced a resolution on the situation of human rights in Zimbabwe. The resolution addressed a number of factors that have had an adverse impact on the situation of human rights in Zimbabwe, namely actions taken by the Government of Zimbabwe and by agents and supporters of the Zimbabwean ruling party. It also addressed the importance of land reform and recognised the threat of HIV/AIDS to the economic and social development of Zimbabwe. South Africa, on behalf of the African Group, introduced a non-action motion that was voted for by the Commission, which prevented any further consideration by the Commission.

#### **4.4.4 The Americas**

At the 59th session of the CHR, the EU delivered a statement on Colombia, in which it expressed its strong support for the work of the OHCHR in Colombia and reiterated its support and readiness to take an active part in the Peace Process. The EU also negotiated a consensus Chairperson's statement on the situation of human rights in Colombia, following close and constructive consultations with the Colombian delegation. The Chairperson's statement welcomed and supported the readiness of the Government of Colombia to address and give the highest priority to the promotion and protection of human rights. It strongly condemned, however, serious breaches of international humanitarian law by paramilitary groups, as well as all acts of terrorism and serious abuses and violations of international humanitarian law committed by guerrilla groups, particularly against civilians.

The resolution on Cuba adopted at the 59<sup>th</sup> CHR expressed satisfaction with the appointment of Christine Chanet as personal representative of the UN High Commissioner for Human Rights, on the situation in Cuba. It urged the Government of Cuba to receive the personal representative and to provide all the facilities necessary for the fulfilment of her mandate. The 59<sup>th</sup> CHR took place against the backdrop of large-scale arrests, unfair summary prosecutions and arbitrary and excessive sentences of numerous peaceful opponents of the government, as well as the execution of three Cuban citizens after summary trials and conviction on hijacking charges (see section 4.1.1 for information on the EU's common position). In its statement under item 9 the EU therefore expressed grave concern for the human rights situation in Cuba, noting continuing violations of civil and political rights, including arbitrary detention, intimidation of political opponents and imprisonment on political grounds, which reversed the previously noted trend toward positive developments, such as seemingly greater religious freedom, a three year unofficial moratorium on the death penalty and the opening of an EC Office in Havana. The EU condemned the arrest of 75 peaceful political opponents in Cuba since 18 March and called for the prompt release of all political prisoners. The EU statement further included a reference to the lack of democratic reforms in the country, the rejection by the Cuban Government of the visit by the personal representative and the assignment of the EU Sakharov Prize for Freedom of Thought to leading opposition voice Paya (see section 2.2).

The situation of human rights in Haiti also featured on the agenda of the CHR at its 59<sup>th</sup> session. As last year, a Chairperson's statement was adopted by consensus. In this statement the Commission expresses its deep concern at the deteriorating human rights situation in the country and urges the Haitian government to step up its efforts to combat impunity. It also renews the mandate of the Independent Expert and requests the OHCHR to expand its activities in Haiti by setting up an office in the country.

#### **4.4.5 Middle East**

The EU has noted the achievements in the Middle East, including those highlighted in the UNDP Arab human development report of 2002, such as increased life expectancy, lower infant mortality and the lowest regional incidence of extreme poverty. But many challenges still remain, such as the lack of participatory governance, gender inequality, high levels of poverty and widespread illiteracy. As the Thessaloniki European Council Conclusions state, the EU must strengthen its partnership with the Arab world.

The 59th session of the Commission on Human Rights took place against the backdrop of the military action in Iraq. However, this did not dominate the session as was perhaps feared. The main reason for this was that the proposal by some countries to hold a special sitting on Iraq was rejected by the Commission.

At the Commission on Human Rights the EU introduced resolutions on the Israeli settlements in the occupied Arab territories and on Iraq. In addition, the human rights situation in Iran, Saudi Arabia and Syria was addressed in the EU's statement on agenda item 9, on the question of the violation of human rights and fundamental freedoms in any part of the world. The EU also gave a separate statement on the human rights situation in the occupied territories under agenda item 8.

The European Union decided not to present a resolution on the human rights situation in Iran at the 57th session of the General Assembly nor at the 59th session of the Commission of Human Rights. The EU opened a human rights dialogue with Iran at the end of 2002 (see Chapter 4.1). So far, there have been two dialogue meetings, one in Tehran and another in Brussels. The EU has continuously stated that it is actual improvements of the human rights situation in Iran that matter and that dialogue cannot replace action.

In its statement at the CHR under item 9, the EU welcomed the recent commitment expressed by the government of Iran to strengthen respect for human rights in the country and to promote the rule of law. The EU was encouraged by the standing invitation extended to the thematic procedures of the Commission to visit the country, and by the cooperation of the government of Iran with the working group on arbitrary detention. The EU took due note of the de facto moratorium on the imposition of sentences to death by stoning as a first step towards the abolition of this practice.

However, the EU remained deeply disturbed by continuing serious violations of human rights in Iran and urged the government to speed up the process of reform of the system of administration of justice. The EU was seriously concerned about executions continuing to be carried out in apparent absence of respect for internationally recognised safeguards. The practice of public executions is particularly regrettable. The EU was equally concerned by the use of torture and other forms of cruel, inhuman and degrading punishment in Iran. The situation with regard to freedom of opinion and expression is still troubling, including the recent suspension of several reformist newspapers and imprisonment of journalists, students and intellectuals. The EU also noted with great concern the continued violations of the human rights of women, and the discrimination, in law and in practice, against women and girls. Discriminatory practices continue against persons belonging to religious minorities, including against the baha'is.

Both at the Third Committee of the 57th session of the General Assembly and at the 59th session of the CHR the EU introduced resolutions on Iraq. At the Third Committee the resolution was adopted by vote. The resolution expressed grave concern that there had been no improvement in the situation of human rights in the country and strongly condemned the systematic, widespread and extremely grave violations of human rights and among other things the widespread use of the death penalty, the summary and arbitrary executions, including political killings and the widespread and systematic practise of torture.

During the CHR session the situation in Iraq changed dramatically, and the Government of Iraq which had been the main focus of the resolution no longer existed. Thus the structure of the resolution had to be revised in the course of the session. The resolution, adopted with 31 votes in favour and 3 against while 12 abstained, renewed the mandate of the Special Rapporteur for a further year. The mandate of the Special Rapporteur will focus on newly available information about violations of human rights and international law by the Government of Iraq over many years.

At the CHR the EU resolution on the Israeli settlements in the occupied Arab territories was adopted with 50 votes in favour and 1 against (2 abstained). The resolution expressed grave concern at the continuation of the Israeli-Palestinian conflict, which has led to a seemingly endless spiral of hatred and violence and to increased suffering for both Israelis and Palestinians, and at the continuing Israeli settlement activities, including the illegal installation of settlers in the occupied territories and related activities. It strongly condemned all acts of violence, including extra-judicial killings, indiscriminate terrorist attacks killing and injuring civilians, provocation, incitement and destruction and urged the parties to cooperate in the early and unconditional implementation, without modifications, of the road map endorsed by the Quartet.

In its statement on the question of the violation of human rights in the occupied territories, the EU regretted that over the past year violence and violations of human rights committed by the two parties to the conflict had persisted, leading to a vicious circle of pain and suffering. The EU found particularly alarming the killing and wounding of children of both sides, as well as the impact on the lives, personal development and well-being of those who have been affected by violence.

As the year before, the EU co-sponsored the resolution on the situation in occupied Palestine, which deals with self-determination, and abstained at the vote on human rights in the occupied Syrian Golan. The resolution on the question of the violation of human rights in the occupied Arab territories including Palestine had divided the votes of the EU countries at the 58th session of the CHR. At the 59th session all but one EU country abstained at the vote. One EU country voted against the resolution. In its explanation of vote the EU was concerned that the text did not in a sufficiently clear and unequivocal manner condemn terrorism. Also, the resolution did not call on the Palestinian Authority to fulfil its commitment to respect human rights.

The EU countries abstained in the resolution on the human rights situation of the Lebanese detainees in Israel. In the explanation of vote the EU regarded some elements in the resolution as falling within the competence of other UN organs such as the Security Council. The EU reiterated its concern at the imprisonment of several Lebanese citizens in Israel.

The EU called the Libyan authorities to cooperate with UN human rights mechanisms and facilitate their access in Libya, and to fully respect obligations to promote and protect human rights.

In its statement at the CHR the European Union welcomed certain improvements in the human rights situation in Saudi Arabia. The EU was encouraged by the cooperation received from the Saudi authorities by the Special Rapporteur on the independence of judges and lawyers during his visit in October 2002. However, the European Union continued to have deep concerns about the implementation of basic international human rights norms in Saudi Arabia. The EU deplored the practice of torture and cruel and inhuman punishment and of imposing the death penalty in apparent disregard of internationally recognised safeguards and was also concerned about arbitrary and incommunicado detention, prison conditions, the lack of legal representation for defendants and the role of confessions in the legal process. The EU also deplored the continuing restrictions on freedom of expression, religion, assembly, association and travel and remained deeply concerned about the situation of women who continue to be subject to systematic discrimination.

The human rights situation in Syria was addressed in the EU statement at the CHR. The EU was encouraged by Syria's release of up to 600 political prisoners over the last two years, as well as the granting of licenses to independent publications. The EU, however, remained concerned about the overall human rights situation in that country. There have been reports of widespread use of torture in Syrian prisons and a lack of accountability of the security services. The EU deplored politically motivated arrests and trials of prominent members of civil society and journalists for peacefully exercising their freedom of expression, as well as the sentences against two members of parliament.

## 5. Conclusion

Democracy, the rule of law and the promotion and protection of human rights and fundamental freedoms are defining principles of the European Union. History, not least that of the Union itself, has shown that adherence to these principles constitutes a fundamental prerequisite for prosperity, justice, peace and stability for all.

The primary responsibility for applying these principles in practice lies with governments. In shouldering their responsibility, governments rely on contributions from international organisations, civil society, the business community as well as dedicated individuals, including professionals such as doctors, lawyers, teachers and the media.

This report is a source of information for all these actors and thus aims to broaden the discussion of ways and means to improve the EU's human rights policy. The Council Conclusions on human rights and democratisation of 25 June 2001 form the starting point for this discussion. As stated in Chapter 2 the priorities laid down in these Conclusions are essentially: coherence and consistency between Community action and the CFSP as well as development policy; mainstreaming human rights and democratisation into EU policies and actions; openness in the EU human rights and democratisation policy; and regular identification and review of priority actions in the implementation of that policy.

In its conclusions of 10 December 2002, the Council proceeded to take action on the identified priorities by undertaking (i) to include human rights and democratisation on the agenda for its annual external policy priorities discussion; (ii) to discuss the main issues likely to arise at the UN Commission on Human Rights and at the Third Committee of the UNGA, with a view to defining the EU's general position in those fora in advance of the sessions concerned; and (iii) to continue to review, between sessions of the CHR, the implementation of resolutions initiated by the EU at the CHR. The Council subsequently adopted conclusions on the broad lines of the EU's action in CHR 59 on 19 March 2003, as well as conclusions on Iran and on China in the context of that forum (see section 4.1.3 and 4.2.2).

In follow-up to these conclusions a series of parallel measures have since been implemented, which correspond to the 4 interrelated priority areas and are referred to in various sections of this report.

### **Coherence and consistency**

Coherence and consistency involves close cooperation and coordination between the various actors involved in both Community action, CFSP and development policy. Efforts are currently underway to reinforce the role of COHOM and the Heads of Mission in third countries and to strengthen cooperation between Embassies of member states and Commission delegations. Human rights are now also included in country strategy papers and national indicative programmes. However, in order for these coordination activities to produce results, a simultaneous focus on both the internal and international dimensions of the EU's human rights policy is required.

In this respect, the report shows that a number of aspects relevant to the protection and promotion of human rights within the EU need further attention. Substantial challenges include the full implementation of legal standards and guarantees laid down in binding Community legislation, on such issues as racism and xenophobia, as well as ensuring that the protection of human rights is not compromised by legislative and other efforts in fields such as asylum and immigration and the fight against terrorism (see section 3.1.1-3).

### **Mainstreaming**

With regard to the issue of mainstreaming, progress has been made on a number of issues. First, the report highlights new initiatives in relation to the use of the human rights clauses in trade and cooperation agreements and funding for human rights projects through the EIDHR. These include the establishment of working groups on human rights and the development of national and regional action plans (see section 2.4, 4.1.1, 4.1.5 and 4.1.6).

The report also emphasises the need for a more operational focus on human rights in political dialogue. Common approaches formulated at the institutional level and positions assumed within the UN General Assembly and the Commission on Human Rights should be carried forward at the political level in the context of direct consultations and dialogue with third countries. Vice versa the outcome of consultations and dialogue could then improve the credibility and effectiveness of EU action in the main international fora. The overview of strategies, positions, and actions presented in this report should now be used to further improve the application of the full range of instruments at the EU's disposal to advance human rights in the context of its overall external relations. (see section 2.4, 4.1.1-4 and 4.2).



## Openness

The issue of openness has been addressed in various ways. First, the members of COHOM had several meetings with representatives of the main NGOs to discuss, inter alia, preparations for CHR 59, and the Greek Presidency continued the practice established under the Danish Presidency of holding debriefing meetings with the main NGOs prior to and after COHOM meetings (see section 2.5). Second, in June 2003, the members of COHOM discussed a number of aspects of the EU human rights policy with Mr. Bob van den Bos, a member of the Parliament's Foreign Affairs Committee and rapporteur on the EP's Annual Report on human rights in the world in 2002.

The format of the structural dialogue with third countries also includes the participation of NGOs and representatives of civil society (see section 4.1.3). In addition, the Secretariats of the Council and the Parliament have intensified informal contacts between the respective institutions, whilst the Council Secretariat and the Commission have commenced work on the establishment of an interinstitutional website dedicated to the EU human rights policy, intended to supplement the information contained in this report.

It is clear that the level of interaction between the Council on the one hand and the European Parliament and civil society on the other hand could still be increased. Improved interaction remains necessary not only because transparency has intrinsic value, but also because such interaction could lead to further progress in the area of mainstreaming and the review of priority actions. In this context, the discussion on the European Parliament's Annual Report, the human rights discussion forum as well as other forms of dialogue with civil society are valuable evaluation mechanisms (see section 2.5). For example, the EP's Annual Report not only deals with certain recurrent themes on the EU's agenda, such as the death penalty and children's rights, but also calls on the Council and the Commission to take specific action to counter serious violations of religious freedom in third countries, which the Parliament considers to be a matter of particular concern. In addition, both the EP and civil society organizations have stressed the need to ensure that human rights dialogues have real substance and effect, and that the EU does not shy away from addressing serious human rights issues in its political dialogues, particularly with key third countries.

Openness is also linked to the need for a higher level of coherence and consistency of the EU human rights policy. In this respect the credibility of the external EU human rights policy would benefit from a higher level of accountability for the situation of fundamental rights in the EU. The report mentions various developments, which could lead to a more permanent verification of the human rights situation in member states at EU level. The Charter of Fundamental Rights is an important instrument to achieve this objective, not only because EU citizens, lawyers and the Court of Justice itself use the Charter, but also because any proposal for a legislative or regulatory act adopted by the Commission will now be subject to an *a priori* compatibility check with the Charter, attested by the inclusion of a standard recital in proposals which have a connection with fundamental rights (see section 3.2).

The Charter is also relevant to the work of the EU network on independent experts on fundamental rights, established by the European Commission in September 2002. The network plays a part in monitoring respect by member states for human rights, indexing the Charter to international and European instruments for the protection of human rights, promoting evaluation of common thematic issues and contributing to the development of EU policy in the field of human rights (see section 3.1).

### **Review of priority actions**

The review of priority actions in the period covered by the report first of all concerned the evaluation of the 59<sup>th</sup> Commission on Human Rights (see section 4.2.2), as well as the follow-up to the evaluations of previous years. In this respect, ad hoc joint meetings were held in January 2003 between COHOM and representatives from a number of the Council's geographical working groups to facilitate preparations for CHR 59. In May 2003 COHOM took up again its evaluation of the EU's performance in the CHR in light of the experience gained from CHR 59. With the help of advice from Member States' experts in Geneva and building on the work done on this issue under the Greek Presidency, COHOM will take the matter forward under the Italian Presidency.

Review of another priority action concerned the implementation of the EU Guidelines on Torture. To that end, the Political and Security Committee adopted a working paper with proposals for increasing effectiveness of the EU's guidelines on torture in December 2002 (see section 4.3.5). Also a number of the proposals in the working paper had already begun to be acted upon by the end of the period covered by this report, while other proposals are currently being followed up.

### **Final remarks**

The analysis of the 59<sup>th</sup> session of the UN Commission on Human Rights demonstrates that the EU does not always realise its human rights goals, even where it has made substantial efforts. In this respect, experience has shown that the EU is more likely to achieve favourable results where its goals are articulated clearly (for example in the form of a common position or in dedicated thematic guidelines such as those for torture and the death penalty), where concerted efforts are made to address particular human rights issues in relations with third countries (through political dialogue and other instruments such as démarches) and where resources are made available to underpin the EU's strategy (for example through the European Initiative for Democracy and Human Rights).

The adoption of the Optional Protocol to the Convention Against Torture by the UN General Assembly in December 2002 and the entry into force of the Rome Statute of the International Criminal Court in July 2002 are two examples where EU political, diplomatic and financial efforts have contributed to a positive outcome. In the upcoming year the EU will continue to reflect on how its approach might be refined so as to build on these achievements and work towards the realisation of its main objective: raising the level of human rights protection around the world.

# ANNEX I:

## OVERVIEW OF INITIATIVES FINANCED BETWEEN 1 JULY 2002 AND 30 JUNE 2003 THROUGH CHAPTER B7-7

### I/ Projects selected through Calls for Proposals

#### Support for the abolition of the death penalty

Organisation	Title	Region	Max. EU Contribution
Penal Reform International	The Commonwealth Caribbean Death Penalty Project	ACP	1 128 341
Great Britain – China Center	Strengthening the defence of death penalty cases in the People's Republic of China	Asia	526 572
University of Westminster – Centre for Capital Punishment Studies	Informing and supporting strategies for replacing the death Penalty	Worldwide	905 480
Fédération internationale des ligues des droits de l'homme	Soutien aux défenseurs des droits de l'Homme dans leur mobilisation en faveur de l'abolition de la peine de mort	Worldwide	611 200
American Bar Association	A Study of How States' Death Penalty Systems Comport with Minimum Standards Designed to Protect Due Process and Fairness	Worldwide	860 159
British Institute of International and Comparative Law	Legal Tools for Commonwealth Africa	ACP	415 576
Death Penalty Information Centre	Laying the Groundwork for Change: A Three-Year Program of Intensive Public Education, Outreach to the Media, and Assistance to Death Penalty Organisations	Worldwide	450 000
<b>Total N° of Projects:</b>		<b>Total max. EU Contribution:</b>	
7		4 897 328	

### Fighting impunity and promoting International Justice

Organisation	Title	Region	Max. EU Contribution
World Federalist Movement-Institute for Global Policy on behalf of the Coalition for the International Criminal Court	The NGO Coalition for the International Criminal Court Phase IV, Part IV – "From Entry into Force to a Fully Functioning Court"	Worldwide	1 500 000
Non c'è pace senza giustizia /No Peace Without Justice	Towards the Universality of the Jurisdiction of the International Criminal Court	Worldwide	1 500 000
Gustav Stresemann Institut e.V. (GSI) – Academy for European Politics and Economics	Information and Ratification Campaign on the ICC in Central Asian Countries and Mongolia	Regional	518 169
<b>Total N° of Projects:</b>		<b>Total max. EU Contribution:</b>	
<b>3</b>		<b>3 518 169</b>	

### Combating (i) racism and xenophobia (ii) discrimination against ethnic minorities and indigenous peoples

Region	Number of Projects	Max. EU Contribution
Europe	11	8 299 748
Mediterranean	4	2 507 757
Latin America	8	5 242 674
ACP	4	2 285 027
Asia	5	2 731 117
<b>Total</b>	<b>32</b>	<b>21 066 323</b>

<b>Region: Europe</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
COOPI – COOPERAZIONE INTERNAZIONALE	Promotion of positive interethnic relations toward peace building, development and integration in multiethnic regions of West, Central East and South East Serbia	Federal Republic of Yugoslavia	776 435
European Dialogue (UK)	Ethnic Minorities and Access to Justice	Russia	572 550
Caritas der Diözese Feldkirch	"Building Kosovo's Future from within" Integration and reconciliation as stepping stones towards a mutually tolerant society of all ethnic groups	Federal Republic of Yugoslavia	434 547
Bureau on Human Rights (Moscow)	"The Public Campaign to Combat Racism, Xenophobia, Antisemitism and Ethnic Discrimination in the Multi-National Russian Federation."	Russia	1 138 112
Centre for the Study of Global Ethics, University of Birmingham, England, United Kingdom	Releasing Indigenous Multiculturalism through Education (RIME)	Regional	901 489
Media Diversity Institute, London, UK	Training the media, empowering minorities: a project for improved media coverage of ethnic and minority issues in the South Caucasus	Regional	1 168 326
CARE Deutschland	Community Advocates Programme – Advancing the Rights of the Roma in the Federal Republic of Yugoslavia	Federal Republic of Yugoslavia	718 150
Women's Aid Federation of England	Strengthening Diversity	Russia	635 839
World Vision Deutschland e.V.	Inter-communal Centres for Youth (ICY) – Georgia	Georgia	672 000
Novosibirsk State University	Extension of the possibilities of indigenous peoples of Siberia in obtaining a high level education	Regional	762 300
CISP Comitato Internazionale per lo Sviluppo dei Popoli	Ethnic Reintegration in North-Eastern Bosnia & Herzegovina: Enhancing Minority Participation in Local Governments	Bosnia	520 000
<b>11 Projects</b>		<b>8 299 748</b>	

<b>Region: Mediterranean</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
SHATIL, the New Israel Fund's Empowerment and Training Centre	Bedouin Education: Mobilising Community Activism for Equal Access to Education	Regional	659 460
MADA: Arab Center for Applied Social Research	Increasing Presence, Monitoring Absence: Combating Discrimination Against Palestinian Citizens of Israel	Regional	897 937
Mossawa Centre The Advocacy Centre for Arab Citizens of Israel	Campaign Against Racism	Regional	650 000
Community Advocacy	Bedouin Citizens for Equal Rights	Regional	300 360
<b>4 Projects</b>		<b>2 507 757</b>	

<b>Region: Latin America</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
APS-Associazione per la Partecipazione allo Sviluppo	"Promoción de los Derechos Humanos con los Pueblos Indígenas del Chaco boliviano	Regional	347 408
MUGARIK GABE	Fortalecimiento de la Capacidad de los Pueblos Indígenas de Antioquia para el Ejercicio de sus Derechos y su Autonomía en el Contexto del Conflicto armado Colombiano	Regional	694 448
C.I.S.S. – COOPERAZIONE INTERNAZIONALE	"Derechos Humanos y Participación Social Maya, Contra el Racismo y Discriminación, en el	Guatemala	600 000

SUD-SUD	Altiplano Occidental de Guatemala"		
Ibis Dinamarca	Reunificación, Revalorización Cultural y Continuidad del Pueblo Secoya	Regional	401 565
CISP – Comitato Internazionale per lo Sviluppo dei Popoli	Apoyo a la promoción y defensa de los derechos de los Pueblos Indígenas y Afrodescendientes de la Costa Caribe de Nicaragua	Regional	983 188
U-landsorganisationen Ibis (Ibis-Danish Solidarity and Development Organisation)	Lucha contra la discriminación étnica y de género en el ámbito de la educación y la participación política en Guatemala	Guatemala	1 218 414
Comitato Internazionale per lo Sviluppo dei Popoli CISP	Fortalecimiento a los Procesos de Organización de 120 Comunidades afro-colombianas, para la Defensa y Reconocimiento de sus Derechos Etnoculturales y territoriales	Colombia	643 790
Asociación por la Paz y el Desarrollo	Consolidación organizativa y social de la parcialidad indígena Mbya Guaraní, de Paraguay.	Regional	353 861
<b>8 Projects</b>		<b>5 242 674</b>	

<b>Region: ACP</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
COOPERAZIONE INTERNAZIONALE – COOPI	Renforcement des actions de lutte à la discrimination de la minorité pygmée Aka en RCA et valorisation de son identité socioculturelle	Regional	867 767
CAURWA (Communauté des Autochtones Rwandais)	Promotion des droits et la participation des Batwa dans la société civile	Rwanda	306 407
ENTRECULTURAS – FE Y ALEGRÍA	Lucha contra la discriminación racial y la xenofobia en la República Dominicana	Regional	652 724
Action pour la Promotion et la Défense des Droits	Sensibilisation des principaux responsables de l'Applications des Lois à la	DR Congo	458 129
des Personnes Défavorisées (APRODEPED)	Situation et aux Droits des Minorités ethniques et des Victimes de Discriminations à l'Est du Congo et Assistance et Assistance juridique à celles-ci		
<b>4 Projects</b>		<b>2 285 027</b>	

<b>Region: Asia</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
Oxfam GB	Combating Xenophobia and Discrimination against Dalits in Nepal	Nepal	421 445
SOUTH ASIA FORUM FOR HUMAN RIGHTS	Europe-Asia exchange project on experiences of the politics of recognition	Regional	363 744
South Asia Human Rights Documentation Centre	Combating Caste Discrimination in South Asia	Regional	598 516
Just World Partners	Peoples' Voices – Helping Indigenous People to Decide their own Development	Indonesia	364 705
Friedrich Naumann Foundation	Community Centres for the Empowerment of Indian Women in Malaysia	Regional	982 707
<b>5 Projects</b>		<b>2 731 117</b>	



**(i) The prevention of torture and (ii) the provision of support for the rehabilitation of torture victims**

<b>Region</b>	<b>Number of Projects</b>	<b>Max. EU Contribution</b>
Europe	8	4 532 970
Mediterranean	3	1 755 709
Latin America	2	1 465 408
ACP	5	3 513 160
Worldwide	1	1 414 219
<b>Total</b>	<b>19</b>	<b>12 681 466</b>

<b>Region: Europe</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
Bulgarian Helsinki Committee	Prevention of Torture in the Closed Institutions of Central and Eastern Europe	Regional	972 731
The Kosovo Rehabilitation Centre for Torture Victims (KRCT)	Rehabilitation of Torture Victims and Torture Prevention	Federal Republic of Yugoslavia	328 701
Former Political Prisoners For Human Rights	Prevention of Torture in Georgia – Government, Society, Victims	Georgia	301 510
Latvian Centre for Human Rights and Ethnic Studies	"Monitoring Human Rights and Prevention of Torture in Closed institutions: prisons, police cells and mental health care institutions in Baltic countries"	Regional	724 628
Association "Vive Žene" Tuzla	VIVE ŽENE, Psychotherapeutic Centre for Women and Children	Bosnia	460 000
THE HUMAN RIGHTS FOUNDATION OF TURKEY	Project Concerning the Treatment and Rehabilitation Centers for Torture Survivors	Turkey	700 000
Izmir Bar Association Center on Human Rights Law and Law Researches	The Role of Jurists in the Prevention of Torture	Turkey	360 374
Kharkiv Human Rights Protection Group	Campaigning against torture and cruel treatment in Ukraine	Ukraine	685 026
<b>8 Projects</b>		<b>4 532 970</b>	

<b>Region: Mediterranean</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories	Combating Torture of Palestinians	Regional	745 000
Treatment and Rehabilitation Center for Victims of Torture, Ramallah, Palestine	The Treatment and Rehabilitation Center for Victims of Torture (TRC), Ramallah – Palestine	Regional	361 326
DANCHURCH AID	Post-trauma Rehabilitation of Palestinians Physically Disabled due to Torture	Regional	649 383
<b>3 Projects</b>		<b>1 755 709</b>	

<b>Region: Latin America</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
ASOCIACIÓN ABUELAS DE PLAZA DE MAYO	Centro de Rehabilitación Abuelas de Plaza de Mayo	Argentina	645 674
Instituto Peruano de Educación en Derechos Humanos y la Paz (IPEDEHP)	Incorporación de prácticas de prevención de la tortura en el comportamiento y actitud de las autoridades políticas, militares y policiales y de los líderes comunitarios".	Perou	819 734
<b>2 Projects</b>		<b>1 465 408</b>	

<b>Region: ACP</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
NDH-Cameroun	« Pas-de-Torture » (Prévenir la Torture au Cameroun pour une nation plus respectueuse des droits de l'homme)	Regional	310 225
Cooperazione Internazionale (Coopi)	Female Victims of Inhuman and Degrading Treatment Support Programme in Sierra Leone	Sierra Leone	999 359
INDEPENDENT MEDICO LEGAL UNIT-KENYA	INDEPENDENT MEDICO LEGAL UNIT-KENYA	Regional	350 768
COSV Comitato di Coordinamento delle Organizzazioni per il Servizio Volontario	Preventing the use of violence and torture practices among youth in Zimbabwe	Zimbabwe	655 854
Amnesty International	Preventing the practice of torture through education	Regional	1 196 954
<b>5 Projects</b>		<b>3 513 160</b>	

<b>Region: Worldwide</b>			
<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
Organisation Mondiale Contre la Torture (OMCT)	Prévention de la torture et renforcement du rôle des ONG dans les mécanismes internationaux et régionaux de droits de l'homme	Worldwide	1 414 219
<b>1 Project</b>		<b>1 414 219</b>	

## II/ Targeted Projects

### Development and Consolidation of Democracy and the Rule of Law, Respect for Human Rights and Fundamental Freedoms

Organisation	Title	Country	Max. EU Contribution
Comité Inter-Eclesial para a Paz em Angola – COIEPA	"The Church and the Construction of Peace in Angola"	Angola	600 000
Asociacion Latinoamericana Para Los Derechos Humanos (ALDHU)	"Continuidad: una Red de Comunicaciones para la Cuenca Amazonica"	Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Surinam, Peru, Venezuela	644 293
Comisión Colombiana De Juristas (CCJ)	Strengthening Social and Institutional Capacity for the Promotion, Defence, and full attainment of civil and political rights in Colombia	Colombia	650 000
Fédération mexicaine d'organismes publics des droits de l'Homme (FMOPDH)	Institutional Strengthening of the Human Rights Bodies of Mexico	Mexico	640 000
Foundation for International Studies – University of Malta	"Mediterranean Masters in HR & Democratisation"	Regional / Southern & Eastern Mediterranean	782 792
Austrian Study Centre for Peace and Conflict Resolution (ASPR)	"Training for Civilian Aspects of Crisis-Management – Phase II"	Worldwide	1 260 000
University of the South Pacific	Transforming our Communities through Good Governance	Fiji	635 000
Fiji Human Rights Commission	Capacity Building Support for the Fiji Human Rights Commission	Fiji	453 000
Secretaria General de la Comunidad Andina	Initiative for Andean Regional Stability	Colombie, Bolivie, Equateur,	939 400

		Pérou et Venezuela	
Collectif des ligues et associations de défense des droits de l'homme du Rwanda (CLADHO)	"Project for the support of the Civil Society in the Gaçaça-process in Rwanda – Surviving together"	Rwanda	299 805
OHCHR	"Observation of Human Rights in Burundi	Burundi	600 000
OHCHR	Assistance to the Sierra Leone Truth and Reconciliation Commission (TRC)	Sierra Leone	960 000
UNDP	Legal Advisory Unit in the Office of the UN Resident Coordinator in Zimbabwe	Zimbabwe	268 825
Transparency International	"Equipping Civil Society to Combat Corruption in the Arab World"	Regiona / Mediterranean	705 000
OCDE	"Measuring Democracy, Human Rights and Good Governance"	Worldwide	1 510 000
Bureau du Haut Commissariat des Nations Unies aux Droits de l'Homme en République Démocratique du Congo	Appui aux activités de Promotion et de Protection des DH dans les Provinces de l'Est en RD Congo	DR Congo	904 960
OHCHR	Prison Conditions in Colombia: Institutional Strengthening of the Prosecutor General's Office, the Ombudsman Office, and the Ministry of Justice	Colombia	600 000
OHCHR	"Strengthening the Implementation of Human Rights Treaty Recommendations through the Enhancement of National Protection Mechanisms"	Worldwide	1 409 920
UNICEF	Capacity Building for Monitoring and Implementation of Children's Rights in Bosnia Herzegovina	BiH	600 000

Council of Europe	Programme joint avec le Conseil de l'Europe portant sur 6 volets relatifs au renforcement de la démocratisation et de l'état de droit	CEEC	3 349 229
UNDP	Support to the strengthening of civil society in the framework of its participation in the process of penal reform in Haiti	Haiti	700 000
Heinrich Böll Stiftung	Programma de dialogo en Cuba	Cuba	532 000
Heinrich Boell Foundation, Arab Middle East Office	The Promotion of Women's Rights Through Empowerment, Awareness and Legal and Political Reform	Regional / Mediterranean: Egypt, Jordan, Lebanon, West Bank & Gaza	890 000
UNDP	Sustained Good Governance in Ethiopia	Ethiopia	496 000
OSCE	"Roma, use your ballot wisely!"	Bosnia & Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia/FRY, Montenegro/FRY; Albania and Moldavia	300 000
Cairo Institute for Human Rights Studies	Enhancing the Role of Civil Society in Human Rights and Political Reform in the Arab Region	Egypt	800 000
Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ)	Civic Education and Voter Education	Mozambique	720 000
Friedrich Ebert-Stiftung Tunisian Office	Strengthening Trade Union Movement in Tunisia	Tunisia	716 800
The Olof Palme Institute	Promoting Democracy in Burma	Burma	800 000
The Danish Institute for	EU-IRAN Human Rights Dialogue	Iran	239 178

Human Rights			
Organisation of American States	"Strengthening of Democracy in Venezuela"	Venezuela	600 000
MOVIMONDO	"Fortalecimiento de la lucha contra la impunidad y promocion de la Corte Penal Internacional en Guatemala"	Guatemala	895 909
Mexican Foreign Ministry	Harmonisation legisl. mex avec instruments internationaux DH	Mexico	600 000
Foundation Sebrenica	Memorial Sebrenica	Bosnia Herzegovina	250 000
<b>Total N° of Projects:</b>		<b>Total max. EU Contribution:</b>	
<b>34</b>		<b>26 411 447</b>	

**Support for the activities of the International Penal Tribunals and the Establishment of the International Criminal Court**

Organisation	Title	Country	Max. EU Contribution
International Criminal Tribunal for the former Yugoslavia (ICTY)	"Outreach programme for the ICTY"	Bosnia and Herzegovina ; Federal Republic of Yugoslavia (FRY); Croatia; Former Yugoslav Republic of Macedonia (FYROM)	640 000
Bejin Seminar	Comparative Study of Implementation measures for the Rome Statute	China	69 550
<b>Total N° of Projects:</b>		<b>Total max. EU Contribution:</b>	
<b>2</b>		<b>709 550</b>	

**Election Observation and Assistance**

<b>Organisation</b>	<b>Title</b>	<b>Country</b>	<b>Max. EU Contribution</b>
OSCE/ODIHR	"EC support to the OSCE/ODIHR Electoral Observation Mission for the Parliamentary Elections in FYROM, 2002"	FYROM	506 000
Participacion Ciudadana – Universidad Simon Bolivar	"Support to General Elections in Ecuador, October and November 2002"	Ecuador	119 350
Agmin Italy	"Support to General Elections in Ecuador, October and November 2002"	Ecuador	1 215 800
-	"EC EOM to the Parliamentary Election in Nepal, 13, November 2002"	Nepal	997 000
IOM	EU-EOM in Palestine – 20 January 2003 and March 2003	West bank Gaza	2 500 000
-	"EU EOM – Elections Législatives au Madagascar, décembre 2002	Madagascar	974 000
GTZ	EU-EOM for the General Elections in Kenya 2002	Kenya	1 786 433
The Palestinian Independent Commission for Citizens' Rights (PICCR)	Voter and Civic Education Programme for the Communities of the West Bank and Gaza Strip	West bank Gaza	349 706
IOM	EU EOM	Nigeria	2 972 000
-	EU EOM	Cambodia	1 468 040
-	EU EOM	Rwanda	1 381 428
<b>Total N° of Projects:</b>		<b>Total max. EU Contribution:</b>	
<b>11</b>		<b>13 920 051</b>	



## ANNEX II:

### OVERVIEW OF INITIATIVES FINANCED BETWEEN 1 JULY 2002 AND 30 JUNE 2003 THROUGH CHAPTER B7-624 AND B5-813

#### Integration of Children's Rights in Development Policy (B7-624)

Organisation	Title	Country	Max. EU Contribution
UNICEF Brussels Office	Leave No Child Out – A partnership between the European Commission and the United Nation Children's Fund on Children's Rights	Central and Eastern-Europe, Central Asia, Balkans, Baltic States	400 000
<b>Total N° of Projects:</b>		<b>Total max. EU Contribution:</b>	
<b>1</b>		<b>400 000</b>	

#### Support to victims of violations of Human Rights (B5-813)

Name of Organisation	Project Title	Countries	Max. EU Contribution
International Rehabilitation Council for Torture Victims (IRCT)	Implementation of the Istanbul Protocol Project	EU	991 413
Behandlungszentrum für Folteropfer Ulm	Rehabilitation of torture victims in the Behandlungszentrum für Folteropfer Ulm (BFU) Medical, therapeutic and psycho-social support and integration work	EU	600 000
THE REDRESS TRUST	Improving Torture Survivors' Access to Justice and Reparation Worldwide	EU	1 102 388
The Swedish Red Cross	The Swedish Red Cross Centres for victims of torture	EU	930 234
Iff-Refugio München e.V.	Partnership for Health Care, Rehabilitation and Support for Survivors of Torture, Gross Human Rights Violations and War and their Families in Germany	EU	1 477 273
<b>Total N° of Projects:</b>		<b>Total max. EU Contribution:</b>	
<b>5</b>		<b>5 1001 308</b>	

This report is the fifth of its kind, following the four previous published in October 1999, 2000, 2001 and 2002. It aims at making the commitment of the European Union to universal respect for human rights and fundamental freedoms better known, and to share it. It is not intended to be exhaustive, but seeks to ensure greater transparency for the principal positions and activities of the EU, and to be a reference document on the latter for the period which it covers, namely 1 July 2002 to 30 June 2003.

Further information about the European Union's Human Rights policy will shortly be available at:

<http://www.europa.eu.int>