

12 January 2006

**EU Network of Independent Experts on Fundamental Rights**  
[http://europa.eu.int/comm/justice\\_home/cfr\\_cdf/index\\_en.htm](http://europa.eu.int/comm/justice_home/cfr_cdf/index_en.htm)

*Introduction*

The EU Network of Independent Experts on Fundamental Rights has been set up in September 2002 by the European Commission (DG Justice and Home Affairs), in response to a recommendation in the European Parliament's Report on the state of fundamental rights in the European Union (2000) (2000/2231(INI)). The EU Network of Independent Experts on Fundamental Rights consists of one expert per Member State and is headed by a coordinator. It currently holds three meeting sessions each year, in Brussels.

Since 2002, the EU Network of Independent Experts on Fundamental Rights monitors the situation of fundamental rights in the Member States and in the Union, on the basis of the Charter of Fundamental Rights of the European Union. In accordance with Article 52(3) of the Charter, the Network reads the provisions of the Charter, which correspond to rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), as having the same meaning and the same scope as those rights, as interpreted by the European Court of Human Rights. The EU Network of Independent Experts on Fundamental Rights also takes into account the fact that other provisions of the Charter have to be read in accordance with the rights guaranteed in other instruments of international and European human rights law, in particular those adopted by the United Nations, the International Labour Organisation and the Council of Europe. Where this is the case, these provisions of the Charter are interpreted by taking into account those instruments and the interpretation given to them in the international legal order.

The EU Network of Independent Experts on Fundamental Rights prepares annual reports (I) and may also be called on to deliver specific information and opinions (II) regarding the situation of fundamental rights in the European Union and in the Member States.

*I. Annual Reports on the situation of fundamental rights in the European Union and in the Member States*

*National Reports* – Each expert prepares a Report (in French or in English) on his /her Member State, fully independently, under his /her own responsibility and according to common guidelines which make it easier to compare the data from the different Member States. Each expert is requested, for each provision of the Charter, to examine (1) the international case law and the observations of experts' committees released during the period under scrutiny (as well as their follow-up) and (2) the domestic legislative initiatives, the domestic case law and the practices of national authorities. The experts are invited to broadly consult both domestic bodies and relevant international organisations. The experts try to identify the positive aspects of the period under scrutiny, the good practices and the reasons for concern.

The country reports are currently accessible on the following website:

<http://cridho.cpd.ucl.ac.be/index.php?pageid=15>

*Report on the activities of the Union* – The activities of the institutions of the European Union are evaluated in a separated report, prepared by the expert on the EU area of freedom, security and justice and by the coordinator of the Network. The Report takes as reference the EU Charter of Fundamental Rights and examines, in the light of the provisions of the Charter, the initiatives taken by the institutions of the Union or by the Member States acting in common in the framework of the Union. This Report is available in French and in English on the following website:

[http://europa.eu.int/comm/justice\\_home/cfr\\_cdf/index\\_en.htm](http://europa.eu.int/comm/justice_home/cfr_cdf/index_en.htm)

*Synthesis Report* - On the basis of these 26 reports (25 reports on the situation of fundamental rights in each of the Member States and the Report on the activities of the institutions of the Union), the experts identify – during a meeting organised in Brussels in February – the main conclusions and recommendations regarding the year under scrutiny (i.e. the positive aspects, the good practices and the reasons for concern regarding the situation of fundamental rights in the Union). The good practices are defined as innovative answers to problems in the implementation of fundamental rights which are faced by all or most of the Member States. When experimented successfully in one Member State, these good practices could inspire similar answers in other Member States, launching a process of mutual learning. The conclusions and recommendations are collected into the Synthesis Report, which is submitted to the European Commission in March of each year.

This Report is available in French and in English on the following website: [http://europa.eu.int/comm/justice\\_home/cfr\\_cdf/index\\_en.htm](http://europa.eu.int/comm/justice_home/cfr_cdf/index_en.htm)

In accordance with the Communication which the Commission presented to the Council and the European Parliament on Article 7 EU ‘Respect for and promotion of the values on which the Union is based’, the Synthesis Reports makes certain recommendations to the institutions of the Union, either where the EU Network of Independent Experts on Fundamental Rights arrives at the conclusion that certain violations of fundamental rights or the risk of such violations being committed by Member States are serious enough to justify that the attention of the European Parliament be drawn upon them – as they could imperil the mutual trust on which Union policies are founded – or where it is found that certain initiatives taken by the Union within its attributed powers could truly add value to the protection of fundamental rights in the Union.

The recommendations of the EU Network of Independent Experts in Fundamental Rights, although they may contribute to the mechanism set up by Article 7(1) EU, also may fulfil another function. The Communication of the Commission underlines that even in the absence of a clear risk of a serious breach, the monitoring by the Network has an essential preventive role in that it can provide ideas for achieving the area of freedom, security and justice or alerting the institutions to divergent trends in standards of protection between Member States which could imperil the mutual trust on which Union policies are founded.

Each annual Synthesis Report also comprises a Thematic Comment, which examines in greater depth one or more issues selected by the Commission and the European Parliament. The Thematic Observation appended to the 2003 Synthesis Report (covering the year 2002) relates to ‘The Balance between Freedom and Security in the Response by the European Union and its Member States to the Terrorist Threats’. The Thematic Comment joined to the 2004 Synthesis Report (covering the year 2003) examines ‘Fundamental Rights in the External Activities of the European Union in the Fields of Justice and Asylum and Immigration’. The Thematic Observation appended to the 2005 Synthesis Report (covering the year 2004) examines to the protection of minorities in the Union.

## *II. Consultation body – Opinions of the EU Network of Independent Experts on Fundamental Rights.*

Apart from the abovementioned missions, the EU Network of Independent Experts on Fundamental Rights is also regularly requested by the Commission to prepare opinions on issues relating to the protection of fundamental rights in the Union. The opinions of the Network are drafted fully independently and are binding neither on the Commission, nor on the European Parliament. In most cases, they are based on a comparison, as complete as possible, of the situations which exist in the different Member States on a given question. They systematically seek to take into account the state of the international and European law of human rights, rather than only the fundamental rights already explicitly recognized in the legal order of the European Union. By the formulation of such opinions, the Network aims at contributing to a better taking into account of the requirements of fundamental rights from the initial stages of the legislative process.

Since it has been established, the EU Network of Independent Experts on Fundamental Rights has prepared the following opinions (available on the following website: [http://europa.eu.int/comm/justice\\_home/cfr\\_cdf/index\\_en.htm](http://europa.eu.int/comm/justice_home/cfr_cdf/index_en.htm))

In 2005:

Opinion 1: Opinion regarding the participation of EU citizens in the political parties of the Member State of residence.

Opinion 2: Opinion regarding the situation of homosexuals in Slovenia.

Opinion 3: Opinion on the requirements of fundamental rights in the framework of the measures of prevention of violent radicalisation and recruitment of potential terrorists.

Opinion 4 : The Right to Conscientious Objection and the Conclusion by EU Member States of Concordats with the Holy See

Opinion 5 : Combating Racism and Xenophobia through Criminal Legislation : The Situation in the EU Member States

In 2004 :

Opinion 1 : Opinion regarding the role of national institutions for the protection of human rights in the Member states of the European Union.

In 2003 :

Opinion 1: Assessment of the fundamental rights dimension of the recognition of forms of unions between non married partners and same-sex marriages within the Amended Proposal for a Directive of the European Parliament and the Council on the right of citizens and their family members to move and reside freely within the EU.

Opinion 2: Opinion on the possibility for each Member State to recognize the same-sex marriage open in Belgium and the Netherlands and the role of the public policy exception of the private international law of each Member State.

Opinion 3: Opinion on the status of illegally obtained evidence in criminal procedures in the Member States of the European Union.

Opinion 4: The protection of privacy on the Internet vis-à-vis systems for the protection of intellectual property

In 2002 :

Opinion 1: Assessment of the fundamental rights dimension of certain aspects of the Directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.