



## ***Human rights as a cross-cutting obligation in a future European Constitution***

With the European Charter of Fundamental Rights, the civil, political, economic and social rights of all European citizens and all people resident in the European Union were laid down in one text for the first time. The Charter was signed and promulgated at the December 2000 summit meeting of the European Council in Nice. However, this does not mean that the Fundamental Rights are legally binding, nor are they enforceable at law.

The working group Europe and member organisations of the Forum for Human Rights (Forum Menschenrechte) were actively involved in this work. This was made possible by the use for the first time of a Convention, enabling a more open and transparent working process than in preceding government conferences.

At the European Summit in Laeken 2001 a European Convention was again used and charged with drafting proposals for a reform of the Union in order to create a framework for its successful enlargement and deepening. Proposals are also being formulated in the European Convention regarding the definitive status of the Charter of Fundamental Rights. For the working group Europe a legally binding status and enforceability are essential criteria for the inclusion of the Charter in the treaties of the Union.

The realisation of human rights as a cross-cutting obligation in all areas and at all levels of politics is at the heart of our work. The inclusion of this aim in the treaties of the Union was the subject of a joint experts' hearing of Forum for Human Rights, FoodFirst Information and Action Network (FIAN e.V.) and the Friedrich Ebert Foundation in June of this year. The results of this event are incorporated into the commentary below and are intended to be utilised in the discussion in the European Convention and in Forum for Human Rights.

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# Human Rights as a cross-cutting obligation

A contribution by the working group Europe  
in the Forum for Human Rights to the work of the Convention

## I Reform of the European Union – the future of human rights

The decisions reached in the Convention and supported by the governments about the future of the European Union will have a lasting impact on the protection of human rights in Europe. The complexity of the decision-making processes in the European Union make it all the more essential to view human rights as an cross-cutting obligation of the Union which must be respected, protected and guaranteed. The realisation of civil, cultural, political, social and economic rights must be seen as a benchmark for all areas and levels of policy making, no matter under whose authority and must be subject to regular monitoring. The prerequisites for an effective protection of human rights are transparency in political decision-making, creation of control mechanisms and the guarantee of the due process of law. The

citizens of the Union expect from the Convention concrete results and progress in the drafting of reforms.

The recognition of the universality and indivisibility of human rights achieved in the Charter of Fundamental Rights will have no practical consequences unless we succeed in affirming the legally binding nature and enforceability of human rights and in ensuring the sustainable development of the protection of human rights in Europe. We, therefore, call on the Convention and the governments to create the legal, political and institutional framework to achieve these ends. This includes ensuring that the institutions of the European Union can be explicitly held to account before international human rights bodies.

# of a reformed European Union

The significance of this development goes beyond Europe. Respect for international standards, the further development of the protection of human rights and

the shaping of the process of globalisation in line with human rights must be at the heart of the European Union's foreign relations.

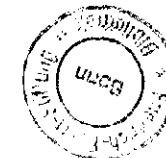
## II Demands to the Convention

We regard the following elements as legal, political and institutional preconditions for the guarantee of human rights in the European Union.

### *Ensure accountability*

■ The Charter of Fundamental Rights must be an integral part of the future treaties of the Union, so that they are legally binding. Fundamental Rights must be individually enforceable at the European Court of Justice and before national courts.

The accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms and to the revised European Social Charter are the precondition for the Union to be held to account internationally for its political actions.



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***Strengthen self-regulation and political dialogue***

In order to strengthen self-regulation of human rights, clear procedures have to be developed to ensure transparency, responsibility and regulation within the Union and between it and its member states.

- The European Union should conduct a more direct, effective and structured dialogue with the civil society at large. Procedures and rules for such a dialogue should be developed with a view to strengthening the dialogue between representatives of the civil society in the member states and the European institutions.

***Implementation – a cross-cutting obligation***

- The social aspects of the treaties of the Union must be strengthened. Poverty, social exclusion and unemployment are still commonplace for millions of people in the Union. Consequently, the European Union must develop common policies to ensure that every person in the Union has the opportunity to exercise his/her social rights effectively.
- Civil rights in the European Union must be protected and further developed. This requires careful attention following the communitisation of the areas of justice and internal affairs. We observe an increasing erosion of civil rights in the wake of the events of September 11 – in the tradeoff between the principles of freedom and security, civil rights must be guaranteed.

- The policy of the Union and its member states must combat racism and discrimination of refugees, asylum seekers and migrants. The securing of human rights and humanitarian behaviour as well as the protection of minorities and the preservation of their rights remain a core issue.

In foreign policy, too, international human rights standards must serve as a benchmark for European policy, the activities of its institutions and the common foreign and security policy. The member states and thus the European Union, too, are committed to this by international law. The European Union should therefore be in the vanguard, both on a global scale and within the United Nations.

- The indivisibility of human rights represents a recognised standard for the European Union, reaffirmed by its signing in 1993 of the final declaration of the Vienna World Conference on Human Rights. With the ongoing process of globalisation, the tension between, on the one hand, competition law and, on the other, the protection and guaranteeing of human rights is bound to grow. Hence the European Union should send a signal to the international community by recognising the universality and indivisibility of human rights as essential criteria in the forming of the globalisation process.

### III The future of the European Union

The Convention is the major forum for the formulation of proposals regarding the future shape of the European Union. It must clearly demonstrate that the Union consistently pursues its aims and values. Human rights, democracy, solidarity and sustainability are the guidelines for development in the 21<sup>st</sup> century and the European Union must pursue these. We will continue to observe and lend constructive support to the work of the Convention.

*Berlin, September 2002*

*For further information on the work of the European Convention*

<http://european-convention.eu.int>

[http://www.europa.eu.int/futurum/index\\_de.htm](http://www.europa.eu.int/futurum/index_de.htm)

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### ***Forum for Human Rights***

comprises a network of more than 40 non-governmental organisations (NGOs) which are committed to the enhanced and comprehensive protection of human rights – worldwide, in certain regions of the world, in certain countries and in the Federal Republic of Germany. The Forum was founded following the 1994 Vienna World Conference on Human Rights and co-operates closely with NGOs on a European and international level.

### ***FIAN***

is an international human rights organisation for people's right to feed themselves. Founded in 1986, FIAN (FoodFirst Information & Action Network), today has more than 1,300 members in Germany. FIAN is committed to creating a legal and nutritional basis to enable rural populations to produce their own food. The human right to produce one's own food is enshrined in the United Nations international pact on economic, social and cultural rights (Social Pact).

### ***Friedrich Ebert Foundation***

was founded in 1925 and is a non-profit making, private, cultural institute dedicated to the ideas and basic values of Social Democracy. The promotion of democracy, social justice and solidarity are at the heart of its work both domestically and abroad. The Friedrich Ebert Foundation plays an active part in the Forum for Human Rights and, since 1994, has awarded an annual human rights prize. This is sponsored by the Karl-Feist-Fonds and honours special commitment to human rights.



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