

Written contribution by Franco Frattini Vice-President of the European Commission

I thank the Parliamentary Assembly of the Council of Europe and its President, Mr. René van der Linden, for the kind invitation to participate in your debates on Human Rights and democracy in Europe. Unfortunately, it has been impossible for me to be with you in Strasbourg today; I therefore appreciate the opportunity to address you in written form.

The Council of Europe and the European Union share the same values and pursue common aims with regard to the protection of democracy, respect for Human Rights and Fundamental Freedoms, and the rule of law.

Over the past 50 years, Fundamental Rights have progressively moved to the centre stage of the European Community-Union project. We have come a long way since 1969, when Luxembourg case-law first recognised that the respect of Fundamental Rights is an integral part of the Communities' general legal principles. The Union was gradually given powers over areas in which the respect of Fundamental Rights constitutes an essential dimension, therefore it developed concrete policies and actions aimed at protecting and promoting Fundamental Rights.

The key role that Fundamental Rights play for the EU is explicitly and clearly recognised in Article 6 of the EU Treaty. The Charter of Fundamental Rights, albeit a non-binding instrument, consolidates and makes visible the civil, political, economic and social rights of EU residents. Adherence to these principles and effective respect of human rights are pre-conditions for any State to accede to the EU. Article 7 of the Treaty provides a mechanism to ensure that Member States effectively comply with Article 6. The European Commission, by means of pertinent impact assessments, scrutinises its own proposals for compatibility with the Charter. It has also strengthened its internal coordination over Fundamental Rights issues by creating the Group of Commissioners on Fundamental Rights, and it continues to provide financial support to a variety of projects and awareness raising initiatives. The EU has also very recently created an independent Agency to provide data, analysis and advice on Fundamental Rights issues within the sphere of EU competence.

All these EU policies and initiatives in the area of Fundamental Rights are not in competition with the Council of Europe's. On the contrary, they are directly inspired by, and based upon, the tremendous *acquis* that your organisation has built in Human Rights during its almost 60 years of existence, obviously including the Human Rights Convention and the invaluable Strasbourg case-law. Article 6(2) of the EU Treaty specifically provides that the Union shall respect Fundamental Rights as guaranteed by the European Human Rights Conventions. The Charter itself refers the interpretation of its own notions to the Strasbourg system. For the Commission, it is absolutely clear that, in protecting Fundamental Rights within its sphere of competence, the EU can only go hand-in-hand with the Council of Europe. Cooperation with the Council of Europe is a basic element of EU Fundamental Rights policy.

This will certainly be the case for the new Fundamental Rights Agency. I'm aware that the creation of the Agency met with some scepticism and criticism in this Assembly. Since the outset of this project, the Commission wanted the Agency to establish close cooperation relations with the Council of Europe. I hope you find the outcome of negotiations within the EU institutions satisfactory from that point of view. The negotiations on a cooperation agreement between the Council and the Community over the Agency are advancing quickly. An exchange of letters between the Commission and the Council of Europe has confirmed that the previous Agreement over the EUMC still applies until the new one is in place. I am convinced that the Agency's activities will be good, complementary to, and not compete with, the Council of Europe's.

The Commission has also collaborated closely with the Council of Europe, and more specifically with your Assembly, on the investigations on the alleged use of European countries by the CIA for the transfer and illegal detention of prisoners. We have welcomed your investigation, as well as the work of the European Parliament's Temporary Committee, and we have provided all the assistance we could to both. For the Commission, the first essential step was to shed light on the facts. We have therefore underlined that the gravity of such facts called for concerted work by all the EU institutions, as well as for full cooperation of our Member States with the EP committee. Also, we stressed the necessity to coordinate EU actions with yours.

The Commission also reminded those Member States concerned of the need to commence or continue in-depth, independent and impartial investigations to establish the truth. This is a positive obligation deriving from the European Convention on Human Rights. We welcome the judicial and parliamentary investigations under way and have called for them to be carried out in full. Procedures launched at national level should also enable the victims to obtain compensation for damages. The Temporary Committee has highlighted the practices referred to as "renditions"; in the Commission's opinion, these practices constitute a violation of the Fundamental Rights guaranteed by the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union.

The European Commission will consider carefully the requests for action that have been addressed to it. It is absolutely essential to prevent such situations from arising again.

Also, the Commission considers it vital not to lose sight of the importance of the fight against terrorism and to restate our determination to carry on this fight with full respect for Fundamental Rights.

Let me finish by restating the Commission's conviction that EU policies for the protection and promotion of Fundamental Rights can only be developed and implemented in close cooperation with the Council of Europe. Our objective is to ensure compliance of EU actions with Fundamental Rights, not to create borders within the system of protection of Human Rights of the Council of Europe. Our Fundamental Rights policy aims at identifying possible shortcomings and filling gaps in our legislation or activities, and we do so by applying the Human Rights Convention principles, not by creating different, competing ones.

Also, while pursuing these goals, the Commission does not lose sight of our ideal: the accession of the European Union itself to the Human Rights Convention. However, until that becomes possible, the Commission would like to count on your collaboration to ensure that the EU effectively respects and promotes Fundamental Rights in its activities and through its actions. I wish you a fruitful discussion today, and thank you for your attention.