10 International obligations

The European Union (EU) is not a 'self-contained regime'; it operates – just as its Member States do – in an international environment and it is bound by international obligations. The year 2010 marked the debut of the modern post-Lisbon Union on the international stage, as discussions at EU level paved the way for the EU's accession to international human rights treaties. Since EU Member States are already bound by a variety of international human rights obligations, the spheres of international law and EU law stand in a communicative process of cross-fertilisation. Against this background, it is of relevance to observe the developments in 2010 with regard to EU Member States' international obligations.

On 15 December 2010, the European Parliament adopted a resolution on the situation of fundamental rights in the EU. In particular, this resolution focuses on the role the Treaty of Lisbon has played in designing "a new fundamental rights architecture" in the EU.[1] It is suggested in the resolution that, as part of this new 'architectural design', EU institutions and agencies must "cooperate better with international organisations committed to the protection of fundamental rights",[2] and, as a result, the effective protection and promotion of fundamental rights "requires actions at various levels (international, European, national, regional and local level)".[3] In other words the Parliament underlines the need for 'joined-up governance'. The concept of 'joined up-governance' recognises the fact that in a multi-level system of governance, efficient protection of fundamental rights can only be achieved through consistent and regular cooperation at the local, national and international level. Another aspect of this is the need for 'multi-agency partnerships', which interact with joined-up governance structures.

2010 marked a year of increased EU cooperation with international organisations with the negotiations relating to the EU's accession to the European Convention on Human Rights (ECHR) and the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD), which will be discussed in more detail below. However, it is not only when the EU enters directly into international obligations that the relevance of international standards becomes apparent for

FRA ACTIVITY

Agency project on 'joined-up governance'

A large gap remains between the rights enshrined in international human rights instruments and the practical realisation of these rights on the ground. A FRA project has set up a network of local, regional, national and supranational actors, including the Congress of local and regional authorities of the Council of Europe. The project will map existing practices starting with a few pilot countries. On the basis of promising practices, it will develop a toolbox of joined-up governance methods for better implementation of fundamental rights. In 2010, the Agency coordinated a preliminary assessment of identified practices in the pilot countries which is being followed up with systematic research in each of the Member States.

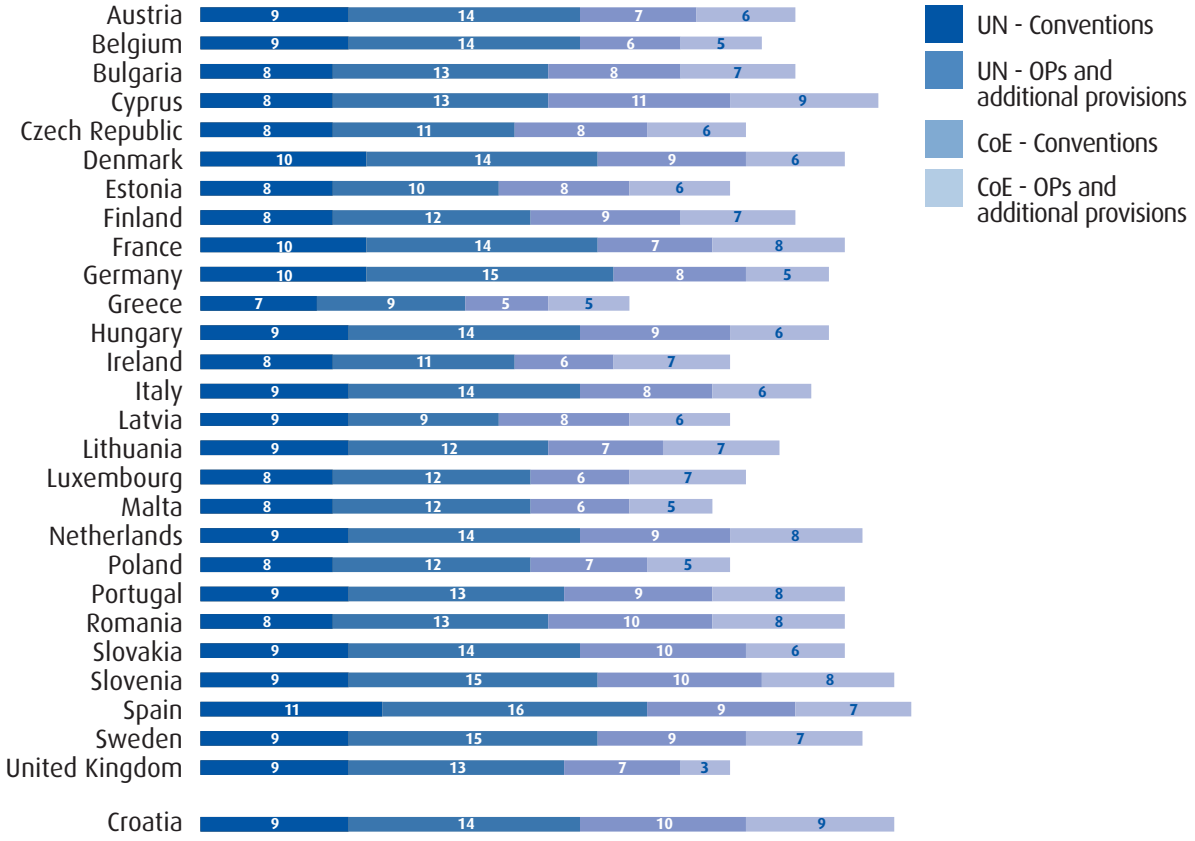
For more information, see: http://fra.europa.eu/fraWebsite/research/projects:Proj_joinedupgov_en.htm

1 European Parliament (2009).
2 *Ibid.*, paragraph 43.
3 *Ibid.*, paragraph 1.

the EU system. International human rights standards that are not directly binding on the EU itself can be relevant for the interpretation of EU law. For instance, the Court of Justice of the European Union (CJEU) has made reference to the European Social Charter,[4] International Labour Organization (ILO) Conventions[5] and the International Covenant on Civil and Political Rights (ICCPR),[6] which evidences the practice of interpreting EU law in conformity with recognised international fundamental rights standards. Also, when identifying general principles of law, the Court "draws inspiration from [...] the guidelines supplied by international treaties for protection of human rights on which the Member States *have collaborated* or to which they are signatories" (emphasis added).[7]

Given the relevance of international standards for the EU, the FRA published an annex in its last annual report, which provided a snapshot of EU Member States' international human rights obligations. In its Resolution of 15 December 2010 on the situation of fundamental rights in the EU, the European Parliament explicitly welcomed this innovation.[8] Taking this into consideration, the Agency has decided to integrate this overview of Member States' ratification of international human rights instruments as a permanent

Figure 10.1: Acceptance of international human rights instruments, by EU Member State and Croatia



Notes: OPs = optional protocols. Acceptance includes both being a state party as well as accepting additional monitoring provisions. The figure includes the following Council of Europe instruments: ICERD, ICCPR, ICESCR, CEDAW, CAT, CRC, ICRMW, CRSR, CTOC ICPED, CRPD, ILO C169 and all corresponding protocols. Please note the full names of these instruments are provided in the context of Tables 10.3 and 10.4.

Source: FRA, 2010

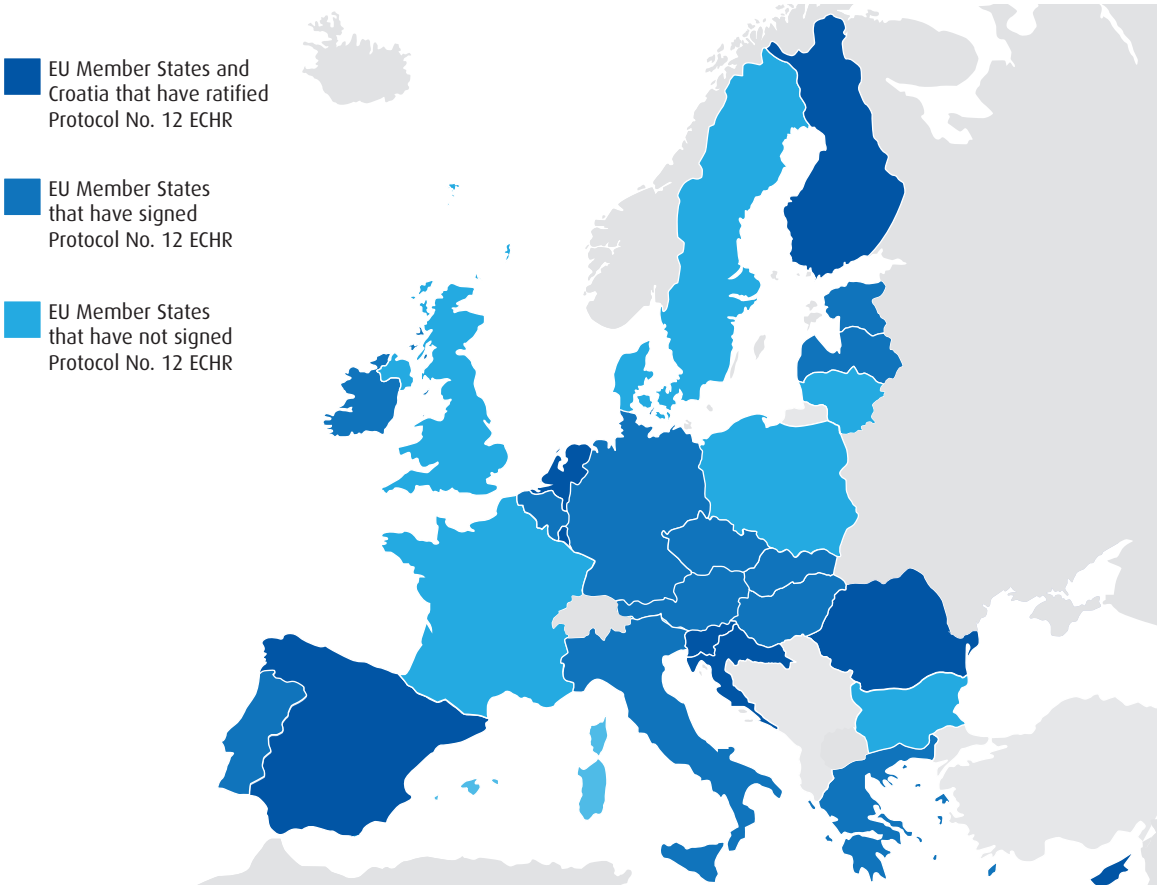
4 CJEU, C-149/77, *Defrenne v. Sabena (No. 3)*, 15 June 1978.
5 CJEU, C-41/90, *Höfner and Elser v. Macrotron*, 23 April 1991; C-158/91, *Levy*, 2 August 1993; C-197/96, *Commission v. France*, 16 January 1997.
6 CJEU, C-374/87, *Orkem v. Commission*, 18 October 1989; C-249/96, *Grant v. South-West Trains Ltd.*, 17 February 1998.
7 Opinion of the Court of Justice of the European Union (1996).
8 European Parliament (2009), paragraph 31.

chapter in its annual reports. Thus, this chapter traces the level of EU Member States[9] formal commitment to international human rights obligations, while highlighting recent developments (in grey) in the following figures and tables. Figure 10.1 provides an overview of these commitments.

It must be acknowledged that the ECHR remains the leading instrument on human rights protection in the EU. The pivotal role which the ECHR has played in shaping the fundamental rights landscape in the EU has recently been acknowledged in the discussions surrounding the EU's accession to the ECHR. While the ECHR is applicable in all EU Member States, this does not equate to universal compliance – namely, within the EU – with every obligation set out in the Convention, in particular the Protocols to the Convention. For example, not all EU Member States are a party to each of the ECHR protocols. However, in 2010 **Slovenia** ratified Protocol No. 12 (dealing with discrimination), which brings the total number of EU Member States who are state parties to that protocol to seven. While the level of Member States commitment to all ECHR protocols is outlined in Table 10.3, by way of illustration of the level of commitment to this instrument, Figure 10.2 provides a visual overview of EU Member States' ratification of Protocol No. 12.

Moreover, recent statistics from the ECtHR, which includes data on all 47 Council of Europe Member States, indicate that EU Member States are not in compliance with all ECHR obligations: with regard to the 27 EU Member States plus Croatia, the Court handed down 795 judgments in 2010.

Figure 10.2: Ratifications and signatories of Protocol 12 to the ECHR in EU Member States and Croatia, 2010



Note: Protocol 12 deals with discrimination. Information is drawn from the Council of Europe website at: www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=177&CM=8& DF=14/02/2011&CL=ENG.

Source: FRA, 2010

9 According to Article 28 (1) of Regulation 168/2007 establishing the FRA, "the Agency shall be open to the participation of candidate countries as observers." On the basis of Decision 1/2010 of the EU-Croatia Stabilisation and Association Croatia is a participating country in the work of the FRA and for this reason has been included in all the figures and tables of this chapter.

Table 10.1: Number of judgments handed down by the ECtHR, by ECHR Article and respondent EU Member State and Croatia

Countries	Number of judgments	Judgments finding at least one violation	Judgments finding no violation	Friendly settlements / Striking out judgments	Other judgments**	Right to life - deprivation of life	Lack of effective investigation	Prohibition of torture	Inhuman or degrading treatment	Lack of effective investigation	Prohibition of slavery / forced labour	Right to liberty and security	Right to a fair trial
ECHR Article						**2**	**2**	**3**	**3**	**3**	**4**	**5**	**6**
AT	**19**	16	3										6
BE	**4**	4							1			1	3
BG	**81**	69	10	1	1	5	7	1	5	3		14	6
CY	**3**	3					1		1	1	1	1	
CZ	**11**	9	1		1							6	3
DK													
EE	**2**	1	1									1	
ES	**13**	6	7							1			4
FI	**17**	16	1										2
FR	**42**	28	13		1				3			5	10
DE	**36**	29	6		1				1				2
EL	**56**	53			3				5	2		4	8
HU	**21**	21							1			1	1
IE	**2**	2											
IT	**98**	61	3		34				1				9
LV	**4**	3	1			1	1		1				1
LT	**8**	7	1									1	3
LU	**7**	5	2										2
MT	**4**	3			1							3	
NL	**4**	2	1	1					1				
PL	**107**	87	15		5	2	2		2	1		14	20
PT	**19**	15	2		2								2
RO	**143**	135	3		5	1	2	1	22	3		17	30
SK	**40**	40				1	1					10	2
SI	**6**	3	3										
SE	**6**	4	2						2				1
UK	**21**	14	7						2			1	
HR	**21**	21										5	6
Sub Total		**657**	**82**	**2**	**54**	**10**	**14**	**2**	**48**	**11**	**1**	**84**	**121**
Total		**795***											

*Notes: * One judgment concerns Cyprus and Russia; ** other judgments: just satisfaction, revision judgments, preliminary objections and lack of jurisdiction; P = Protocol*

Source: Based on ECtHR, Annual Report 2010, *pp. 130-131*

Table 10.1: (cont'd)

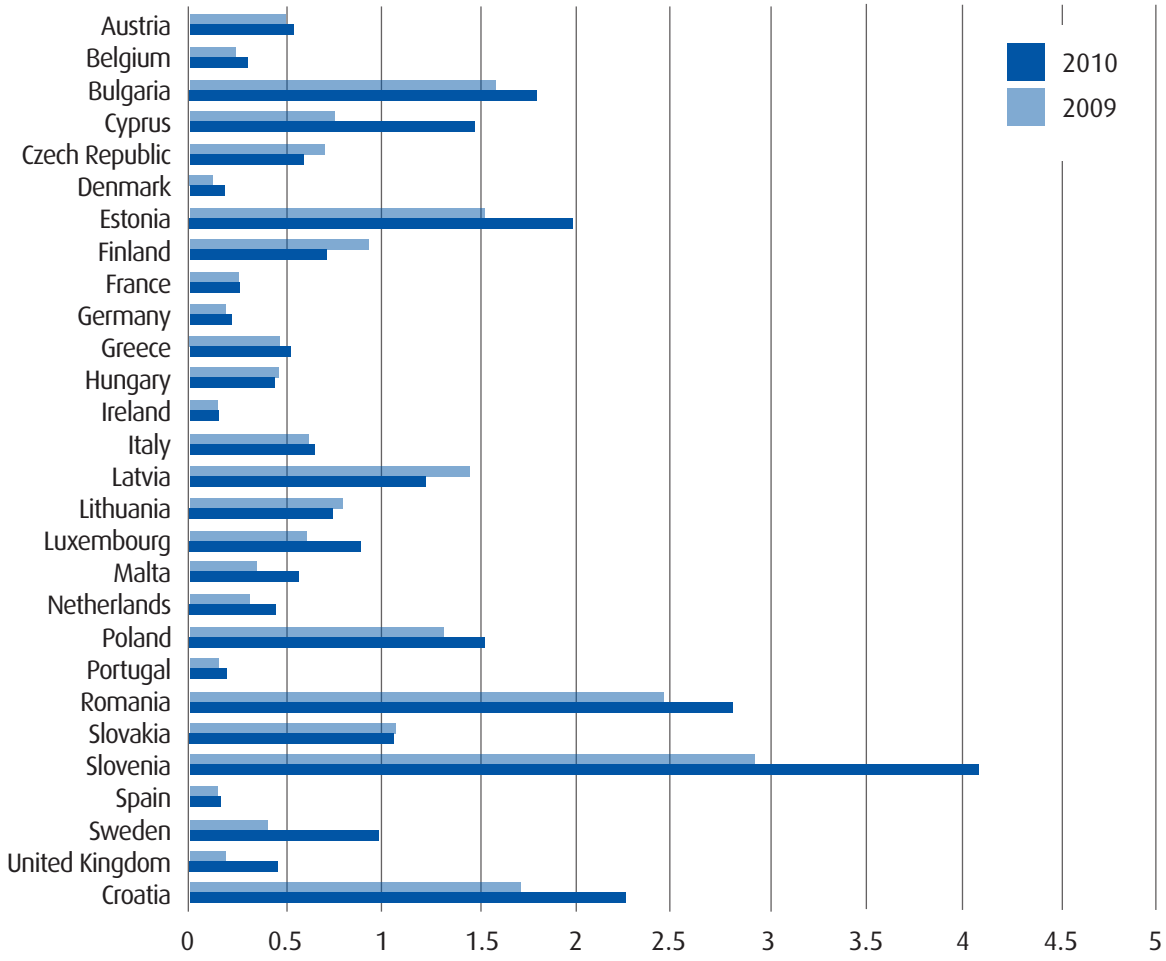
Length of proceedings	Non enforcement	No punishment without law	Right to respect for private and family life	Freedom of thought, conscience and religion	Freedom of expression	Freedom of assembly and association	Right to marry	Right to an effective remedy	Prohibition of discrimination	Protection of property	Right to education	Right to free elections	Right not to be tried or punished twice	Other Articles of the Convention
6	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**P1-1**	**P1-2**	**P1-3**	**P7-4**	*
9								2	4			1		
31	3		8					27	1	18			1	2
			2					1						
1			1					1		2				
					1					1				
9			2		8									
1	1		2		4					5				
29			2					8						
33	6		2	1	1			17	2	1		1		
14			3							1		1		
1			1					1						
44	5		3							6				2
								1						
3								1						
3														
			1											
					1									
37	2		12	1	2		2	2	2	2				
6					3			5		6				
16	30		2		5			5	1	58		1		1
29			2					7						
2			1					3						
1														
1			5				1	4	4			1		1
8	1		2					3	2	2				
278	**48**		**51**	**2**	**25**		**3**	**88**	**16**	**102**		**5**	**1**	**6**

While Table 10.1 provides an overview of the number of judgments handed down by the ECtHR, it is also interesting to look at other statistics prepared by the Court on the number of applications allocated to a judicial formation per population. This is graphically illustrated in Figure 10.3 based on ECtHR statistics.

2010 also witnessed the completion of the ratification process of Protocol No. 14 ECHR, which significantly amended aspects of the Convention's procedural machinery.[10] One of the positive aspects of this reform is the introduction of a new judicial formation (a single judge) to deal with inadmissible cases, which aims to tackle the backlog of applications before the Court. Nevertheless, many problems remain with regard to the workload of the Court, as is evident from Figure 10.4, which indicates that 57,050 applications from individuals in EU Member States and Croatia were pending before judicial formations by the end of 2010.

While the ECHR focused primarily on civil and political rights, the European Social Charter (ESC), which celebrates its 50th

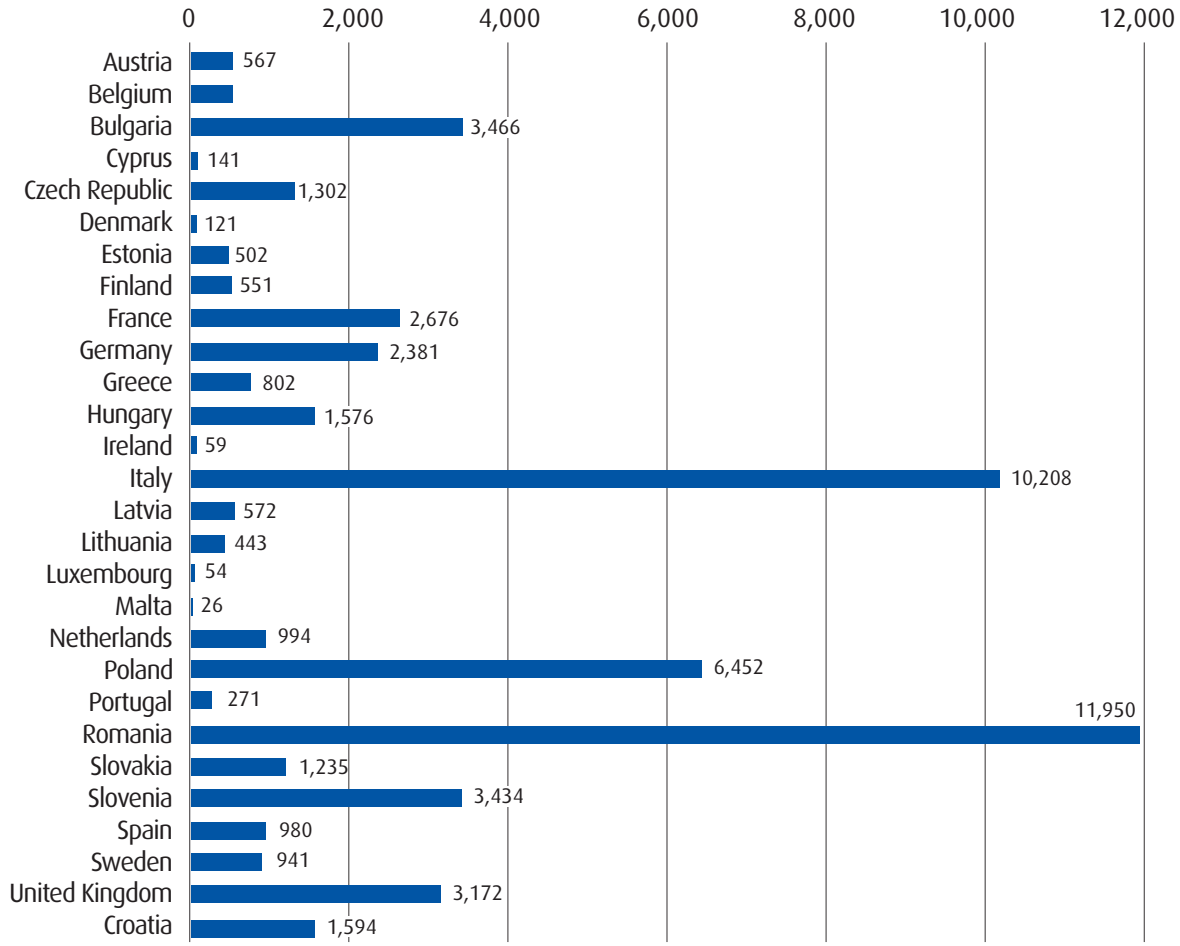
Figure 10.3: Applications allocated to a judicial formation per 10,000 inhabitants, by EU Member State and Croatia



Source: Based on ECtHR Annual Report 2010, pp. 139-140.

10 As a result, Protocol 14bis has ceased to be in force as from 1 June 2010.

Figure 10.4: Number of applications pending before judicial formations as of December 2010, by respondent EU Member State and Croatia



Note: Please note that this figure has been modified to reflect the scope of the FRA; the original figure included statistics on all 47 Council of Europe Member States.

Source: Based on ECtHR Annual Report 2010, p. 126

anniversary in 2011, complements the Convention. However, 10 EU Member States have not yet adopted the revised version of this Charter (providing for additional rights) which the European Committee of Social Rights encouraged in its 2010 Conclusions.[11] It is worthwhile noting that Croatia has not yet adopted the revised version of the Charter either. Moreover, given that state parties may choose to accept or reject individual articles in the ESC, it is interesting to note the level of commitment to the Charter, as outlined in Table 10.2.

Measuring the success of the ESC against the ECHR, it is arguable that social rights have not enjoyed as much protection as other categories of rights at the national level in the EU – at least not as 'rights'. According to the European Parliament Resolution on the situation of fundamental rights in the EU, the EU Charter of Fundamental Rights represents a "modern codification of fundamental rights",[12] which incorporates the full spectrum of rights – from civil to social – and seemingly allows for the equal protection and enjoyment of all fundamental rights.

11 European Committee of Social Rights (2010).

12 European Parliament (2009), paragraph 6.

Table 10.2: Acceptance of different provisions of the European Social Charter, by EU Member State and Croatia

	European Social Charter (1996 revised)									
Country	BE	BG	CY	EE	FI	FR	HU	IE	IT	LT
Total accepted	*24*	*17*	*13*	*20*	*26*	*31*	*18*	*28*	*30*	*24*
Art 1 - right to work	√	√	√	√	√	√	√	√	√	√
Art 2 - just conditions of work	√	½	½	½	√	√	√	√	√	√
Art 3 - safe and healthy work conditions	√	√	½	½	½	√	√	√	√	√
Art 4 - fair remuneration	√	½	x	½	½	√	x	√	√	√
Art 5 - right to organise	√	√	√	√	√	√	√	√	√	√
Art 6 - right to bargain collectively	√	√	√	√	√	√	√	√	√	√
Art 7 - protection of children and young persons	√	√	½	½	½	√	√	√	√	√
Art 8 - protection of maternity of employed women	√	√	½	√	½	√	√	½	√	√
Art 9 - vocational guidance	√	x	√	√	√	√	√	√	√	√
Art 10 - vocational training	√	x	√	½	√	√	√	√	√	√
Art 11 - protection of health	√	√	√	√	√	√	√	√	√	√
Art 12 - social security	√	½	√	√	√	√	½	√	√	½
Art 13 - social and medical assistance	√	½	½	½	√	√	√	√	√	½
Art 14 - benefit from social welfare services	√	√	√	√	√	√	√	√	√	√
Art 15 - persons with disabilities	√	x	√	√	√	√	√	√	√	√
Art 16 - protection of the family	√	√	x	√	√	√	√	√	√	√
Art 17 - protection of children and young persons	√	½	x	√	√	√	√	√	√	√
Art 18 - work in the territory of other Parties	√	½	½	x	√	√	x	√	√	½
Art 19 - protection and assistance of migrant workers	½	x	√	√	½	√	x	√	√	½
Art 20 - non-discrimination on the grounds of sex	√	√	√	√	√	√	√	√	√	√
Art 21 - information and consultation	√	√	x	√	√	√	√	x	√	√
Art 22 - participation in improvement of working conditions	√	√	x	√	√	√	√	√	√	√
Art 23 - social protection of elderly persons	x	x	x	x	√	√	x	√	√	x
Art 24 - protection in cases of termination of employment	x	√	√	√	√	√	x	√	√	√
Art 25 - protection in case of employer's insolvency	√	√	x	√	√	√	x	√	x	√
Art 26 - dignity at work	½	√	x	x	√	√	x	√	√	√
Art 27 - workers with family responsibilities	x	½	½	√	√	√	x	√	√	√
Art 28 - protection of workers' representatives	x	√	√	√	√	√	x	√	√	√
Art 29 - consultation in collective redundancy procedures	√	√	x	√	√	√	x	√	√	√
Art 30 - protection against poverty and social exclusion	√	x	x	x	√	√	x	√	√	x
Art 31 - housing	x	x	x	x	√	√	x	x	√	½

Note: Based on information provided on European Committee of Social Rights website (updated on 5 March 2010), available at: www.coe.int/t/dghl/monitoring/socialcharter/Presentation/ProvisionsIndex_en.asp

Source: FRA, 2010

Table 10.2: (cont'd)

	European Social Charter (1961)																	
	MT	NL	PT	RO	SK	SI	SE	AT	CZ	DK	DE	EL	ES	LV	LU	PL	UK	HR
	21	*30*	*31*	*17*	*25*	*29*	*23*	*14*	*16*	*18*	*15*	*21*	*23*	*10*	*16*	*11*	*14*	*15*
	√	√	√	√	√	√	√	√	½	√	√	√	√	√	√	√	√	√
	½	√	√	½	√	√	½	½	√	½	√	√	√	x	√	½	½	√
	√	√	√	½	√	√	½	√	√	√	√	√	√	x	√	√	√	x
	√	√	√	√	√	√	½	½	½	½	½	√	√	x	½	½	½	x
	√	√	√	√	√	√	√	√	√	√	√	x	√	√	√	√	√	√
	√	√	√	√	√	√	√	½	√	√	√	x	√	√	½	½	√	√
	√	√	√	√	√	√	½	½	√	x	½	√	√	x	√	½	½	√
	½	√	√	√	√	√	½	√	√	½	½	√	√	√	½	√	½	√
	√	√	√	√	√	√	√	√	x	√	√	√	√	√	√	√	√	√
	√	√	√	x	√	√	√	√	x	√	½	√	√	x	√	½	√	x
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	½	√	√	√	√	√	½	√	√	√	√	√	√	x	√	√	½	x
	√	√	√	½	½	½	√	√	√	√	√	√	√	√	√	½	√	√
	√	√	√	x	√	√	√	√	√	√	√	√	√	√	√	½	√	√
	√	√	√	½	½	√	√	√	½	√	√	√	√	x	√	√	√	x
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	½	√	√	½	½	½	√	√	½	√	√	√	√	x	√	½	√	x
	x	½	√	½	½	√	√	½	½	x	√	√	√	x	√	√	√	x
	√	√	√	√	√	√	√	x	√	√	x	√	√	x	x	x	x	√
	x	√	√	√	√	√	√	x	√	√	x	√	√	x	x	x	x	√
	x	√	√	x	√	√	√	x	√	√	x	√	√	x	x	x	x	√
	√	√	√	x	√	√	√	x	√	√	x	√	√	x	x	x	x	x
	√	√	√	√	√	√	x											
	√	√	√	√	√	√	√											
	√	√	√	x	√	√	√											
	½	√	√	½	½	√	√											
	√	√	√	√	√	√	x											
	√	√	√	√	√	√	√											
	x	√	√	x	√	√	√											
	x	√	√	x	x	√	√											

Articles 20-23 correspond to Article 1-4 to the additional protocol to the original European Social Charter from 1961.

√ = accepted

½ = accepted in part

x = not accepted

Moreover, considering the fact that fundamental rights play an instrumental role in all facets of life, it is necessary for EU Member States to comply with the full range of international obligations. This includes the nine core United Nations human rights treaties as well as a number of Council of Europe conventions. For instance, in the European Parliament resolution, EU Member States are called upon to sign and ratify a non-exhaustive list of 'core' human rights conventions. Member States commitments to these conventions are outlined in Table 10.3 and Figure 10.5 (Council of Europe) as well as in Table 10.4 and Figure 10.6 (UN).

Regarding the Council of Europe conventions, there has been a moderate level of activity in 2010. For example, three Member States – **Ireland**, **Italy** and **Sweden** – have ratified the Convention Against Trafficking of Human Beings (CATHB), which brings the total number of EU Member States which are state parties to 19. The EU relevance of this convention has been identified by the Parliamentary Assembly of the Council of Europe (PACE), which issued a final declaration on 3 December 2010 stating that "accession by the European Union (EU) to the Convention would ensure that its high standards and human rights approach are uniformly applied throughout Europe".[13]

13 Council of Europe, Parliamentary Assembly (2010).

Table 10.3: Acceptance of selected Council of Europe conventions, by EU Member State and Croatia

Country	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES
Total accepted	*13*	*11*	*15*	*20*	*14*	*13*	*15*	*14*	*11*	*16*
ECHR (as amended by P14)	√	√	√	√	√	√	√	√	√	√
ECHR P1 (property, education, etc)	√	√	√	√	√	√	√	√	√	√
ECHR P4 (No prison for debt, etc)	√	√	√	√	√	√	√	√	x	√
ECHR P6 (death penalty)	√	√	√	√	√	√	√	√	√	√
ECHR P7 (criminal appeal)	√	s	√	√	√	s	√	√	√	√
ECHR P12 (discrimination)	s	s	x	√	s	s	x	s	s	√
ECHR P13 (death penalty)	√	√	√	√	√	√	√	√	√	√
ESC rev*	s	√	√	√	s	s	s	√	s	s
ESC Protocol Collective Complaints**	s	√	√	√	s	s	s	s	√	s
CPIPPD	√	√	√	√	√	√	√	√	√	√
AP to CPIPPD	√	s	√	√	√	√	s	√	s	√
CCVVC	√	√	x	√	√	√	√	√	√	√
ECPT	√	√	√	√	√	√	√	√	√	√
ECRML	√	x	x	√	√	√	√	x	x	√
FCNM	√	s	√	√	√	√	√	√	s	√
ECECR	s	x	x	√	√	√	x	x	√	s
'Oviedo Convention'	x	x	√	√	√	x	√	√	√	√
Convention on Cybercrime	s	s	√	√	s	√	√	√	s	√
AP to Convention on Cybercrime	s	s	x	√	s	s	√	s	s	x
CATHB	√	√	√	√	x	s	√	s	s	√
CSEC	s	s	s	s	x	s	s	x	s	x
CAOD	x	x	x	x	x	x	x	s	x	x

Notes: Greyed-in boxes indicate developments in 2010.

ECHR (as amended by P14)	European Convention on Human Rights (as amended by P14)
ESC (rev)*	European Social Charter (revised)
CPIPPD	Convention for the protection of individuals with regard to automatic processing of personal data
CCVVC	Convention on the Compensation of Victims of Violent Crimes
ECPT	European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
ECRML	European Charter for Regional or Minority Languages
FCNM	Framework Convention for the Protection of National Minorities
ECECR	European Convention on the Exercise of Children's Rights

Moreover, in 2010 two EU Member States ratified the Convention on Cybercrime – **Portugal** and **Spain** – and three EU Member States – **Netherlands**, **Portugal** and **Romania** – ratified the additional protocol to this convention. This brings the total number of Member States which are state parties to these instruments to 18 and 10, respectively.

As shown in Table 10.3, there have not been any new developments in 2010 with respect to a number of instruments. There were still, for example, 23 ratifications and another three signatures to the Framework Convention for the Protection of National Minorities (FCNM) among the EU Member States, with **France** being the only Member State which has neither signed nor ratified the convention. In relation to the European Charter for Regional or Minority Languages (ECRML) there are 16 ratifications, three additional signatures and eight EU Member States have not even signed this Charter. **Croatia** has ratified both the FCNM and the ECRML.

Finally, in 2010 two EU Member States – **Hungary** and **Sweden** – ratified the Council of Europe Convention on Access to Official Documents, which only opened for signature in 2009.

Table 10.3: (cont'd)

	FI	FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	UK	HR
	16	*15*	*16*	*14*	*15*	*15*	*13*	*15*	*12*	*17*	*13*	*17*	*18*	*16*	*19*	*16*	*10*	*20*
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	s	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	s	√	√	√	√	√	√	x	√
	√	x	s	s	s	x	√	s	x	√	x	s	√	x	√	s	x	√
	√	√	√	√	√	√	√	s	√	√	s	√	√	√	√	√	√	√
	√	√	√	√	√	√	s	s	√	√	s	√	√	√	√	√	s	√
	√	√	s	√	√	s	s	s	s	√	s	√	s	√	√	s	s	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	s	√	√	√	s	√	√	√	x	√	√	√	√	√	x	√	s	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	s	√	x	s	x	√	x	s	√	√	x	√	√	√	√	√	√
	√	x	√	√	√	√	s	√	√	√	√	√	√	√	√	√	√	√
	s	s	s	s	√	x	s	√	s	x	√	s	x	s	√	s	x	√
	√	s	√	x	s	√	s	√	x	s	s	√	√	s	√	√	x	√
	√	√	√	s	√	√	s	√	s	√	s	√	√	s	√	√	s	√
	s	√	x	x	x	√	s	√	s	√	s	√	√	s	√	s	x	√
	s	√	s	√	√	s	√	√	√	√	√	√	√	√	√	√	√	√
	s	s	s	s	s	s	x	x	x	s	s	s	s	s	s	x	x	s
	s	x	√	x	x	s	x	x	x	x	x	x	x	√	s	x	x	x

'Oviedo Convention'	Oviedo Convention on Human Rights and Biomedicine
CATHB	Convention Against Trafficking in Human Beings
CSEC	Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse
CAOD	Convention on Access to Official Documents
*	All European MS are state parties to the original ESC
**	Signature of ESC (rev) automatically includes signature of the Additional Protocol

√ = State party

s = signed

x = not signed

Source: FRA, 2010

Focusing on the United Nations (UN) level, it is evident from the following figures and tables that in 2010 the most significant developments have taken place in relation to the relatively recent Convention on the Rights of Persons with Disabilities (CRPD), which was adopted on 13 December 2006. In 2010, five EU Member States – **Czech Republic, France, Latvia, Lithuania** and **Slovakia** – ratified the convention, which brings the total number of CRPD ratifications by EU Member States to 16. Eleven Member States had previously signed the convention; so, at the end of 2010 all EU Member States are, at least, signatories to the CRPD. Croatia has also ratified the convention. More significantly, the CRPD is the first UN human rights instrument which provides the possibility for regional organisations to accede to the convention. On 23 December 2010, the EU took advantage of that provision and this is to be welcomed as an example of the entrenchment of international human rights law into the new EU fundamental rights architecture.[14]

Furthermore, there have also been some developments with regard to the Optional Protocol to the CRPD which allows for individual complaints. **Greece** has signed the protocol, and **France**, **Latvia**, **Lithuania** and **Slovakia** have also ratified it. This brings the number of EU Member States who have signed, but not yet ratified, the Optional Protocol to nine – 14 Member States have ratified it. **Croatia** had already ratified the Optional Protocol.

It is encouraging that in 2010, two EU Member States have also accepted optional provisions and/or optional protocols to other UN human rights treaties which allow for individual complaints. This is obviously important since it provides individuals whose rights have been violated with a means of redress. In 2010, **Spain** became the first EU Member State to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR). In that year, **Estonia** also accepted an optional provision in the International Convention on the Elimination of Racial Discrimination (ICERD), which allows for individual complaints. This brings the total number of EU Member States to have accepted this provision to 23.

In relation to children's rights, it should not be forgotten that while the Convention on the Rights of the Child (CRC) itself enjoys almost universal ratification (but for two non-EU Member States), the optional protocols have not received as much support. In 2010, **Hungary** and **Cyprus** ratified the Optional Protocol on the involvement of children in armed conflict, which has now been ratified by all 27 EU Member States. In the same year, **Hungary** and **Malta** also ratified the Optional Protocol on the sale of children, child prostitution and child pornography, bringing the total number of EU Member States ratifications to 23. **Croatia** had already ratified both optional protocols.

14 European Commission (2011).

It has already been acknowledged above, in relation to Council of Europe conventions, that there has been some activity in the area of combating human trafficking. In 2010, **Ireland** ratified the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime.

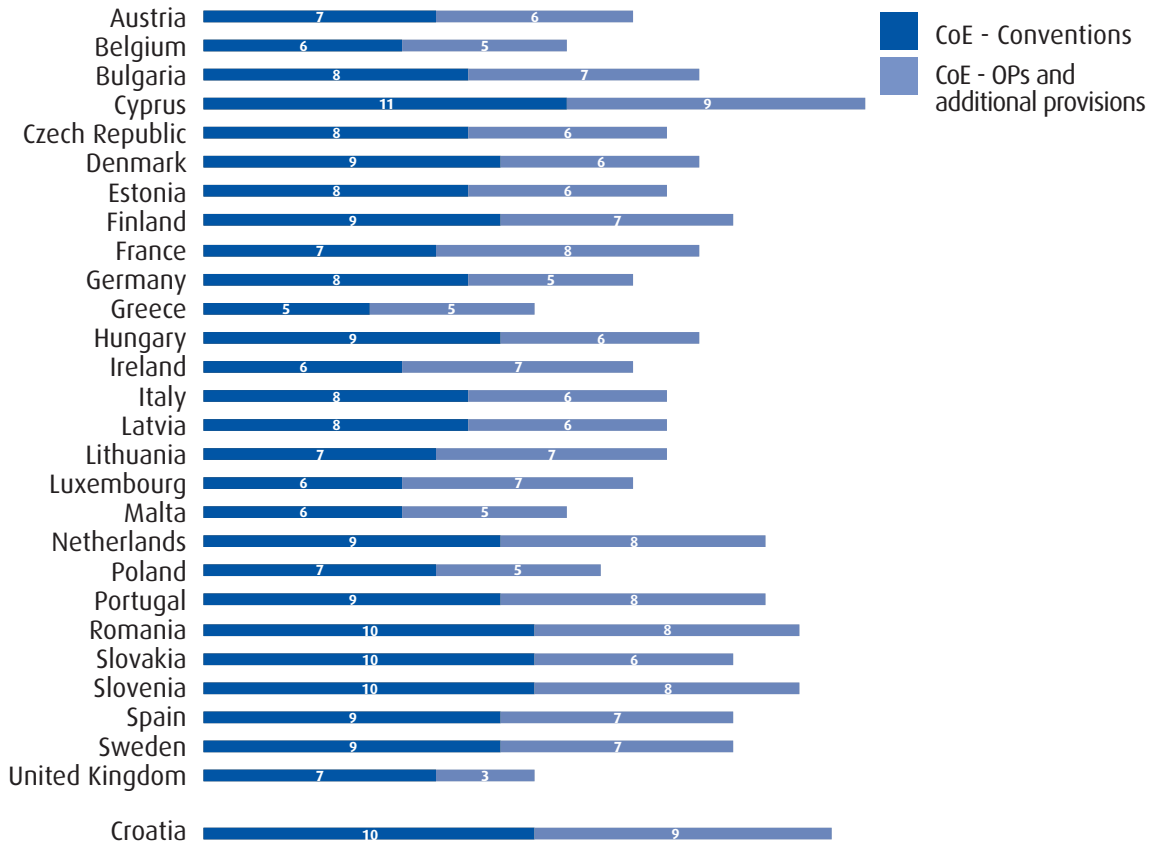
Lastly, it is regrettable that in the areas of minorities and migrant protection, EU Member States have not been as active at the UN level as they have at the Council of Europe level. This is evidenced by the fact that no EU Member State has either signed or ratified the International Convention on the protection of the rights of all migrant workers and members of their families (ICRMW). Speaking on the anniversary of the ICRMW, the UN Special Rapporteur on the Human Rights of Migrants, Jorge Bustamante, called on states which have not ratified the Convention to "seize the opportunity to undertake an important step to ensure the human rights of every person".[15] Furthermore, the International Labour Organisation Convention C169 (on indigenous and tribal peoples) has only been ratified by three EU Member States – **Denmark**, **Netherlands** and **Spain** – while the remaining 24 EU Member States have not signed the convention. **Luxembourg** and the **Netherlands** ratified in 2010 the Optional Protocol to the Convention against Torture (CAT), while **Bulgaria** signed it.

Lastly, it must be noted that formally committing to rights is not enough. It is also necessary for EU Member States to actively participate in the monitoring processes which are provided for by mechanisms under the various conventions. It is also highly important for Member States to make meaningful contributions to the Universal Periodic Review (UPR) of the UN Human Rights Council, as has been outlined in the European Parliament Resolution on the situation of fundamental rights in the European Union.[16] Indeed, the International Court of Justice has recently praised the Human Rights Committee (the International Covenant on Civil and Political Rights (ICCPR) monitoring body) for its contribution to the interpretation of the covenant. According to the Court, "it should ascribe great weight to the interpretation adopted by this independent body that was established specifically to supervise the application of that treaty". [17]

Table 10.5 indicates which EU Member State and Croatia were monitored by UN treaty bodies and Council of Europe monitoring bodies, as well as setting out which EU Member State took part in the UN Universal Periodic Review procedure in 2010. It should also be noted that state parties' compliance with the European Social Charter is monitored by the European Committee of Social Rights on an annual basis, whereby the Committee analyses whether states are in compliance with a group of specific articles each year.

15 Human Rights Education Association (2010).
16 European Parliament (2009), paragraph 46.
17 International Court of Justice, *Ahmadou Sadou Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, 30 November 2010, paragraph 66.

Figure 10.5: Acceptance of selected Council of Europe conventions, by EU Member State and Croatia



Note: OPs = optional protocols.

Source: FRA, 2010

The Committee is also mandated to receive complaints and in 2010 it dealt with four admissibility decisions concerning EU Member States.[18]

In conclusion, it is essential for EU Member States to go beyond ratifications and monitoring in order to put their international legal obligations into practice at national level. For measurement of enjoyment or abuse of fundamental rights in the EU, it is essential to also consider the extent to which people are aware of and can exercise their rights, as well as having the opportunity to seek redress. Court cases only reveal the 'tip of the iceberg' when the number of unreported incidents of fundamental rights abuses are taken into account. Hence, a combination of legislation, monitoring of the situation on the ground, and enforcement is key for guaranteeing the realisation and protection of fundamental rights in the EU.

18 Council of Europe, European Committee of Social Rights, Decisions on Admissibility: *European Roma Rights Centre (ERRC) v. Portugal*, 17 September 2010; *European Council of Police Trade Unions (CESP) v. Portugal*, 22 June 2010; *European Trade Union Confederation (ETUC) v. Belgium*, 8 December 2009; *Centre on Housing Rights and Evictions (COHRE) v. Italy*, 8 December 2009.

Table 10.4: Acceptance of selected United Nations' conventions, by EU Member State and Croatia

Country	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES
Total accepted	*23*	*23*	*21*	*21*	*19*	*25*	*24*	*18*	*16*	*27*
ICERD	√	√	√	√	√	√	√	√	√	√
ICERD - Individual complaints (Art. 14)	√	√	√	√	√	√	√	√	x	√
ICCPR	√	√	√	√	√	√	√	√	√	√
ICCPR - State complaints (Art. 41)	√	√	√	x	√	√	√	x	x	√
ICCPR - OP1 (individual complaints)	√	√	√	√	√	√	√	√	√	√
ICCPR - OP2 (death penalty)	√	√	√	√	√	√	√	√	√	√
ICESCR	√	√	√	√	√	√	√	√	√	√
ICESCR - OP	x	s	x	x	x	x	x	x	x	√
CEDAW	√	√	√	√	√	√	√	√	√	√
CEDAW - OP	√	√	√	√	√	√	√	x	√	√
CEDAW - Inquiry procedure (Art. 8)	√	√	√	√	√	√	√	x	√	√
CAT	√	√	√	√	√	√	√	√	√	√
CAT - OP	s	s	s	√	√	√	√	√	x	√
CAT - State complaints (Art. 21)	√	√	√	√	√	√	√	√	√	√
CAT - Individual complaints (Art. 22)	√	√	√	√	√	√	√	√	√	√
CAT - Inquiry procedure (Art. 20)	√	√	√	√	√	√	√	√	√	√
CRC	√	√	√	√	√	√	√	√	√	√
CRC - OP1 (armed conflict)	√	√	√	√	√	√	√	s	√	√
CRC - OP2 (prostitution)	√	√	√	√	s	√	√	√	√	√
ICRMW	x	x	x	x	x	x	x	x	x	x
CRSR	√	√	√	√	√	√	√	√	√	√
CTOC	√	√	√	√	s	√	√	√	s	√
Protocol to CTOC (smuggling of migrants)	√	√	√	√	s	√	√	√	s	√
Protocol to CTOC (trafficking)	√	√	√	√	s	√	√	√	s	√
ICPED	s	s	s	s	x	√	s	x	s	√
CRPD	√	√	s	s	√	√	√	s	s	√
CRPD - OP (individual complaints)	√	√	s	s	s	√	x	x	s	√
ILO C169	x	x	x	x	x	x	√	x	x	√

Notes: Greyed-in boxes indicate developments in 2010.

Full names of United Nations conventions:

ICERD - International Convention on the Elimination of Racial Discrimination

ICCPR - International Covenant on Civil and Political Rights

ICESCR - International Covenant on Economic, Social and Cultural Rights

ICESCR - OP - Optional Protocol to the ICESCR

CEDAW - Convention on the Elimination of All Forms of Discrimination against Women

CEDAW - OP - Optional Protocol to the CEDAW

CAT - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CAT - OP - Optional Protocol to the CAT

CRC - Convention on the Rights of the Child

CRC - OP1 - Optional Protocol to the CRC on the involvement of children in armed conflict

CRC - OP2 - Optional Protocol to the CRC on the sale of children, child prostitution and child pornography

ICRMW - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Table 10.4: (cont'd)

	FI	FR	HU	IE	IT	LT	LU	LV	MT	NL	PL	PT	SE	RO	SI	SK	UK	HR
	20	*24*	*23*	*19*	*23*	*21*	*20*	*18*	*20*	*23*	*20*	*22*	*24*	*21*	*24*	*23*	*22*	*23*
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	x	√	x	√	√	√	√	√	√	√	√	x	x
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	x	√	√	√	x	√	x	√	√	√	x	√	x	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	x	√
	√	√	√	√	√	√	√	x	√	√	s	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	s	x	x	x	s	x	s	x	x	s	x	s	x	x	s	s	x	x
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	x	x	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	x	x	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	s	√	x	s	s	x	√	x	√	√	√	s	√	√	√	x	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	x	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	s	√	√	s	√	√	s	√	√	√	√	√	√	√	√	√	√	√
	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	s	√	√	s	√	√	√	√	√	√	√	√	√	√	√
	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√	√
	s	√	x	s	s	s	s	x	s	s	x	s	s	s	s	s	x	s
	s	√	√	s	√	√	s	√	s	s	s	√	√	s	√	√	√	√
	s	√	√	x	√	√	s	√	s	x	x	√	√	s	√	√	√	√
	x	x	x	x	x	x	x	x	x	√	x	x	x	x	x	x	x	x

CRSR - Convention relating to the Status of Refugees

CTOC - Convention on Transnational Organised Crime

ICPED - International Convention for the Protection of All Persons from Enforced Disappearance

CRPD - Convention on the Rights of Persons with Disabilities

CRPD - OP - Optional Protocol to the CRPD

ILO C169 - International Labour Organization Convention No. 169 on Indigenous and Tribal Peoples

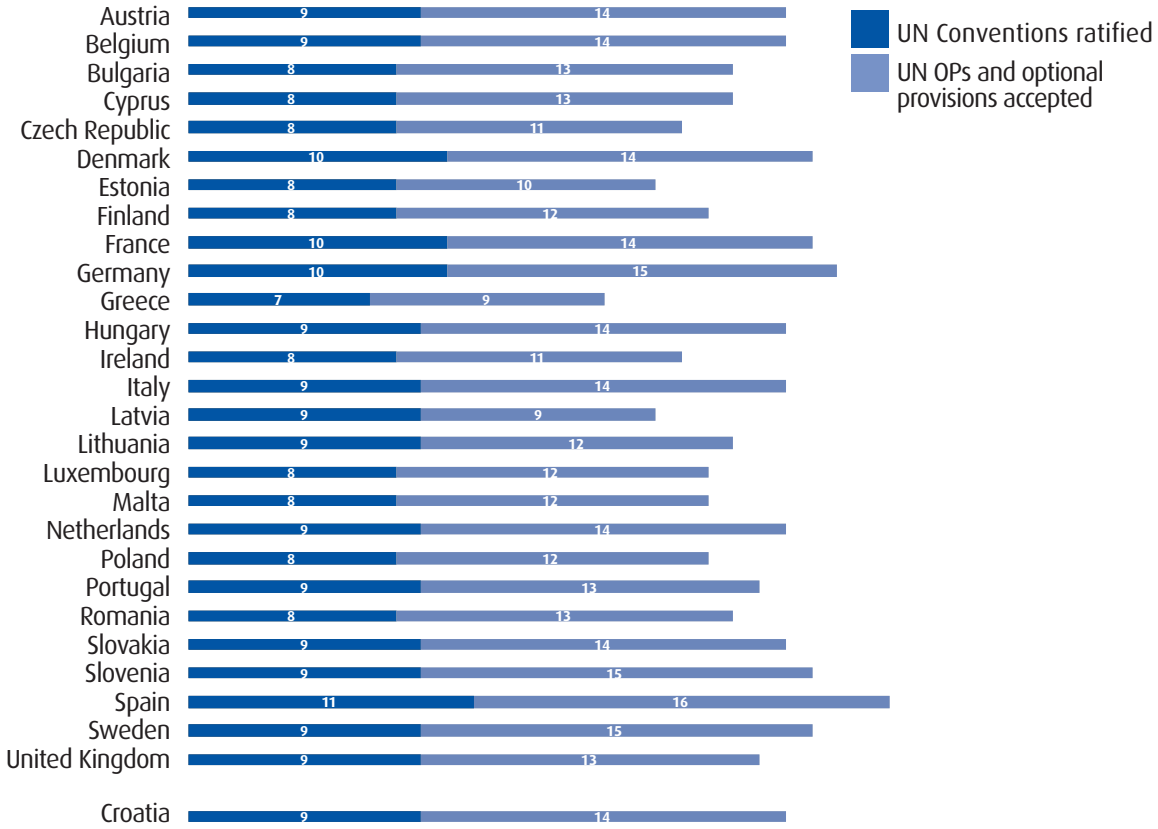
√ = State party / accepted provisions

s = signed

x = not signed

Source: FRA, 2010

Figure 10.6: Acceptance of selected United Nations' conventions, by EU Member State and Croatia



Note: OPs = optional protocols

Source: FRA, 2010

Table 10.5: Reports adopted in 2010 by the monitoring bodies established under the UN and Council of Europe conventions, by EU Member States and Croatia

Countries	CERD	HRC	CESCR	CEDAW	CAT	CRC	CRC-OP-SC	UPR	ECPT	ECRML	FCNM	ECRI	Total
AT					√				√			√	3
BE		√				√	√		√				4
BG								√	√		√		3
CY											√		1
CZ				√					√				2
DE											√		1
DK	√									√			2
EE	√	√					√						3
EL													0
ES						√		√					2
FI											√		1
FR	√				√							√	3
HU		√							√		√		3
IE													0
IT								√	√		√		3
LT													0
LU									√	√			2
LV													0
MT				√									1
NL	√		√	√									3
PL		√										√	2
PT													0
RO	√								√				2
SE								√					1
SI	√							√					2
SK	√								√		√		3
UK												√	1
HR								√		√	√		3
Total	7	4	1	3	2	2	2	6	9	3	8	4	51

√ = Monitoring report adopted

Notes:

CERD	*Committee on the Elimination of All Forms of Racial Discrimination*
HRC	*Human Rights Committee (Monitoring body of ICCPR)*
CESCR	*Committee on Economic, Social and Cultural Rights*
CEDAW	*Committee on the Elimination of Discrimination Against Women*
CAT	*Committee Against Torture*
CRC	*Committee on the Rights of the Child*
CRC-OP-SC	*Committee on the Rights of the Child (Monitoring the Optional Protocol on the Sale of Children)*
UPR	*Universal Periodic Review*
ECPT	*European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*
ECRML	*Committee of Experts on Regional and Minority Languages*
FCNM	*Advisory Committee on National Minorities*
ECRI	*European Commission against Racism and Intolerance*

Source: FRA, 2010 (own calculations), based on information available at www.tb.ohchr.org/default.aspx and www.coe.int/t/dghl/overview_monitoring_en.asp

References

Council of Europe, European Committee of Social Rights, Decision on Admissibility, *European Trade Union Confederation (ETUC) v. Belgium*, Complaint No. 59/2009, 8 December 2009.

Council of Europe, European Committee of Social Rights, Decision on Admissibility, *Centre on Housing Rights and Evictions (COHRE) v. Italy*, Complaint No. 58/2009, 8 December 2009.

Council of Europe, European Committee of Social Rights, Decision on Admissibility, *European Council of Police Trade Unions (CESP) v. Portugal*, Complaint No. 60/2010, 22 June 2010.

Council of Europe, European Committee of Social Rights, Decision on Admissibility, *European Roma Rights Centre (ERRC) v. Portugal*, Complaint No. 61/2010, 17 September 2010.

Council of Europe, European Committee of Social Rights, *Conclusions 2010*, December 2010.

Council of Europe, Parliamentary Assembly, Committee on Equal Opportunities, *Parliaments united against human trafficking*, Paris declaration, 3 December 2010.

Council Regulation (EC) No. 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, OJ 2007 L 53.

Court of Justice of the European Union (CJEU), C-149/77, *Defrenne v. Sabena (No. 3)*, 15 June 1978.

Court of Justice of the European Union, C-374/87, *Orkem v. Commission*, 18 October 1989.

Court of Justice of the European Union, C-41/90, *Höfner and Elser v. Macrotron*, 23 April 1991.

Court of Justice of the European Union, C-158/91, *Levy*, 2 August 1993.

Court of Justice of the European Union, C-197/96, *Commission v. France*, 16 January 1997.

Court of Justice of the European Union, C-249/96, *Grant v. South-West Trains Ltd.*, 17 February 1998.

Court of Justice of the European Union, Opinion of the Court of 28 March 1996, Accession by the Community to the European Convention for the Protection of Human Rights and Fundamental Freedoms, Opinion 2/94, European Court Reports, 1996.

Decision No. 1/2010 of the EU-Croatia Stabilisation and Association Council of 25 May 2010 on the participation of Croatia as an observer in the European Union Agency for Fundamental Rights' work and the respective modalities thereof, OJ 2010 L 279.

EU-Croatia Stabilisation and Association Council, Decision 1/2010 on the participation of Croatia as an observer in the FRA's work and the respective modalities thereof, 25 May 2010, OJ 2010 L 279, pp. 68 and 69.

European association for the defence of human rights (AEDH) (2010), 'The AEDH asks the EU to ratify the International Convention on the Protection of the Rights of All Migrant Workers on the occasion of its 20th anniversary', Press release, Brussels, 13 December 2010.

European Commission (2011), 'EU ratifies UN Convention on disability rights', Press release, IP/11/4, 5 January 2011.

European Parliament Resolution of 15 December 2010 on the situation of fundamental rights in the European Union (2009) – effective implementation after the entry into force of the Treaty of Lisbon, P7_TA-PROV(2010)0483.

Human Rights Education Association (HREA) (2010), *Migrants: Growing criminalization, intolerance, xenophobia and racism mark key anniversary*, 17 December 2010.

International Court of Justice, *Ahmadou Sadou Diallo (Republic of Guinea v. Democratic Republic of the Congo)*, 30 November 2010.