Even though the idea of establishing an Agency of Fundamental Rights of the European Union (EU) has been formalised only in June 2005, the project of having, within the Union, an institution entitled to monitor the developments of fundamental rights in the Union and the Member States has been under discussion for some time. A proposal for setting up a monitoring centre for human rights within the Union, which could serve to improve the coordination of the fundamental rights policies pursued by the Member States, had already been made, in particular, in a report prepared for the “Comité des Sages” responsible for drafting Leading by Example: A Human Rights Agenda for the European Union for the Year 2000. The main argument in favour of the creation of such a body was that it could encourage the Union to adopt a more preventive approach to human rights. “Systematic, reliable and focused information”, it was then argued, “is the starting point of a clear understanding of the nature, extent, and location of the problems that exist and for the identification of possible solutions”. The proclamation, on 7 December 2000, of the Charter of Fundamental Rights of the European Union at the Nice European Summit as the single most authoritative restatement of the acquis of the Union in the field of fundamental rights also constituted a decisive step in this regard. Its impact on the practice of the institutions was immediate. Since 2000, for instance, the European Parliament’s annual reports on the situation of fundamental rights in the Union used the Charter as their main source of reference. The establishment in September 2002, by the European Commission upon the request of the European
Parliament, of the EU Network of Independent Experts on Fundamental Rights contributed as well to the move towards the implementation of the proposal for a Human Rights Agency.

Nevertheless, when the heads of States and governments of the Member States announced at their Brussels European Council of 13 December 2003 their intention to extend the mandate of the EU Monitoring Centre on Racism and Xenophobia (EUMC) in order to create a “Human Rights Agency” entrusted with the mission to collect and analyse data in order to define the policy of the Union in this field, they took most observers by surprise. In order to prepare its proposal following this decision of the Council, the European Commission presented a public consultation document on 25 October 2004. In reply to this consultation document, the Commission received contributions from a wide range of actors and, in order to discuss the modalities of the proposed institution, a public hearing was held on 25 January 2005.

On 26 May 2005, in its report on the Promotion and protection of fundamental rights: the role of national and European institutions, including the Fundamental Rights Agency, the European Parliament called on the Commission to submit a legislative proposal concerning the Agency. Pointing out that “establishing the Agency should make a contribution to further enhancing mutual confidence between Member States and constitute a guarantee of continued observance of the principles set out in Articles 6 and 7 of the Treaty on European Union”, the Resolution appended to this report underlines the fact that “the Agency should be designed as a multi-layered structure (‘network of networks’), a specialised body with horizontal competences, in which each of the layers must play a role and contribute to the development of a fundamental rights culture in

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3 Resolution of 5 July 2001 on the situation of fundamental rights in the European Union (2000) (rapporteur Thierry Cornillet) (2000/223(INI)). In its Resolution, “the European Parliament recommended ‘that a network be set up consisting of legal experts who are authorities on human rights and jurists from each of the Member States in order to ensure a high degree of expertise and enable the Parliament to receive an assessment of the implementation of each of the rights laid down in the European Union Charter of Fundamental Rights, taking into account developments in national laws, the case-law of the Luxembourg and Strasbourg Courts and any notable case-law of the Member States’ national and constitutional courts’.”

4 The expression “Human Rights Agency” was also used in the Hague Programme on the Strengthening of Freedom, Security and Justice in the Union annexed to the conclusions of the European Council of 4–5 November 2004.