No Added Value of the EPPO?

The Current Dutch Approach

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I. Introduction

To promote the protection of the financial interests of the European Union, the Commission has introduced a proposal for the establishment of the European Public Prosecutor's Office (in the following: EPPO initiative).[1] This initiative is based on Arts. 86 and 325 TFEU that provide the competence for the European Union to counter fraud and other offenses affecting its financial interests. The objective of this initiative is to establish a coherent European system for more efficient and effective investigation and prosecution as well as to enhance the deterrence of offenses affecting the financial interests of the European Union. It also aims at ensuring closer cooperation and the effective information exchange between the European Union and competent authorities of the Member States. Therefore, the initiative sets forward the establishment of a European Public Prosecutor's Office that will be exclusively competent in cases of fraud against the European Union. For such cases, the establishment of the European Public Prosecutor's Office includes the introduction of investigative competences, the right to prosecute, and the right to bring a case before the competent national judge in any Member State of the European Union. In each Member State, one or more delegated public prosecutors will be appointed who, on behalf of the European Public Prosecutor's Office, will bring these cases before the competent national authorities.

The shaping of the EPPO initiative has gone on for many years and been discussed many times in the Member States by government officials and scholars.[2] Some of these discussions tended to take a critical approach to the EPPO initiative. The Dutch government also made critical comments on this initiative. This has even led the Dutch government to continue to withhold its approval on the EPPO initiative. Against this background, the present article addresses the following questions: How has it come so far? Are the Dutch really against this initiative (cf. 2)? And what are the main current Dutch concerns in conjunction with the EPPO initiative (cf. 3 and 4)? Many of these concerns seem to have a common denominator: the EPPO initiative does not respect the sovereignty of the Dutch State. Is this really true (cf. 5)? And if this initiative were eventually to be accepted, what are key issues for its success or failure (cf. 6)?

II. General Dutch Approach to the EPPO Initiative

The relationship between European community law and Dutch criminal law has always been problematic. In 1992, the Dutch Minister of Justice described this relationship as being politically extremely sensitive.[3] The first ideas for the establishment of the EPPO – laid down in the Corpus Juris[4] and later in the Green Paper on the establishment of a European Public Prosecutor (in the following: Green Paper)[5] – also met with criticism. Although, some Dutch scholars had been working on the Corpus Juris for several years, other Dutch scholars eyed this project critically. Strong criticism was voiced by *Fijnaut* who disqualifies some of the starting points of the Corpus Juris as nonsense. The whole idea of an EPPO seems unrealistic to him because such an office cannot be expected to develop an effective investigation and prosecution policy without having any effective competence over the police and the public prosecuting offices in the Member States.[6] *Fijnaut* and *Groenhuijsen* also considered fundamental arguments in the Green Paper to be unconvincing and inadequate for implementation in the Member States.[7]

On the political level, there also seems to be little support for the institutions of the EU. Since the millennium, Dutch politicians have been critical of the general policies of these institutions and their efforts towards harmonization. This attitude is probably influenced by critical sentiments in Dutch public opinion. A first sign of the lack of support for the European harmonization was the negative referendum on the Treaty establishing a Constitution for Europe when the majority of the Dutch voted against it in June 2005. Things became worse when the European Union was faced with banking crises, Euro crises, and refugee crises. The overall Dutch sentiment seems to be that the institutions of the European Union are unable to fix these problems and therefore the legitimation of these institutions is in decline. Recently, this sentiment was reflected in the outcome of an advisory referendum on the Association Agreement between the European Union and Ukraine. A few days before the referendum, its initiators declared that, in their opinion, the referendum was really about the policy of the institutions of the EU. The Dutch voted in majority for the rejection of the Association Agreement at the end of 2015; because the referendum was advisory, this outcome does not however bind the Dutch government to heed the result.

This euroscepticism in Dutch public opinion is reflected in a growing euroscepticism in both right-wing and left-wing political parties. This is also true for the EPPO initiative. The debate on the EPPO initiative led the Dutch parliament to instigate the so-called yellow card procedure at the end of October 2013. This procedure was supported by national parliaments in eleven other Member States and has resulted in further discussion on the EPPO initiative with the European Commission. A general observation is that, in the beginning, these discussions did not lead to more consensus: the Dutch government repeated its arguments against the EPPO initiative and the Commission repeated its arguments in favor of it. This response of the Commission led to considerable irritation in the Dutch parliament as it felt that it had not been taken seriously.[8] However, the latest outcome of this discussion shows that the Commission has changed the EPPO initiative into a more "Member State-oriented" proposal. This new orientation of the Commission has certainly improved the level of support for the initiative in the Member States.[9] But the Dutch parliament is still following a far-reaching motion on the Dutch approach towards this initiative. This motion clearly stipulates that the Dutch Minister of Justice is not entitled to give his consent to the EPPO initiative, neither as a whole nor to any part of this initiative.[10] Accordingly, consent to the EPPO initiative may only be given by the Dutch parliament. This means that during the Dutch presidency of the European Union, the Dutch Minister of Justice may only discuss certain issues concerning the EPPO initiative but has to refrain from any form of consent.[11]

III. Arguments of the Dutch Parliament against the EPPO Initiative

So far it is clear that the legal framework of the EPPO may only be approved by the Dutch parliament. But what hinders this approval? The main arguments against the EPPO initiative were formulated in the position paper of the Dutch parliament on the EPPO initiative of 11 April 2014.[12] This position paper follows the basic arguments of the Dutch Senate that have led to the aforementioned yellow card procedure and a letter to the European Commission in which these arguments are communicated.[13] The vast majority of the Dutch parliament holds the opinion that the investigation, prosecution, and sentencing of criminal activities must be undertaken at the national level. Any transfer of these competences would be in breach of the concept of sovereignty of the state.[14] Therefore, the legal foundation of the EPPO is not recognized. Furthermore, and in contrast with the view of the European Commission, the necessity for the EPPO is denied. Or, to put it in European terms: the principle of subsidiarity[15] effects that the EPPO lacks a sufficient legal basis because the Member States already deal with the investigation and prosecution of criminal acts that endanger the financial interests of the European Union. Also, there seems to be little belief in the view of the Commission that the protection of financial interests will improve in the hands of the EPPO. This belief seems to follow the observation of *Fijnaut* and *Groenhuijsen* that there is a lack of empirical research, meaning that cross-border crimes such as EU-fraud are poorly investigated and prosecuted in the Member States, that legal cooperation between these Member States lacks efficiency, and that this would improve if the EPPO were to take over the investigation and prosecution of EU fraud.[16]

Other arguments question the necessity of competences foreseen in the EPPO initiative and suggest that they are not in line with the principle of proportionality.[17] There is too much uncertainty about which criminal activities the EPPO is competent to investigate and prosecute. The foreseen general competence of the EPPO for each criminal activity that endangers the financial interests of the EU is considered too broad and not in conformity with the legality principle. It would create a lack of democratic control over the EPPO and also too much uncertainty on what this means for the (breach of) sovereignty in the Member States.[18] There should be accountability at the Member State level for the actions and results of investigation, prosecution, and sentencing of criminal activities. It is considered unacceptable that democratic control over the EPPO is foreseen in an annual report that only will be presented to the European Parliament, whereas the actual investigation and prosecution would take place in the Member States.

The better alternative for the EPPO initiative would be more effective cooperation between Member States as well as in Eurojust and Europol, and with OLAF.[19] The Commission should focus more on how to facilitate this cooperation. In addition, there is no convincing argument for decreasing the role of OLAF to pave the way for the installation of the EPPO. Even if there would be a sound legal basis for OLAF, then it would be well advised to have an advisory and supervisory role in the efforts of the Member States to investigate and prosecute EU fraud. The primary responsibility for these efforts lies at the level of the Member States. The EPPO is only an institution of last resort. It could only take action if a Member State were to neglect its responsibility to investigate and prosecute a case of EU fraud.[20]

Moreover, it is unclear how the exclusive competence of the EPPO really relates to the responsibility of Member States to investigate and prosecute national fraud cases. It seems curious that Member States which actively combat EU-fraud are excluded once the EPPO is competent, even if these activities on the part of the Member States appears to be faster, more effective, and less expensive. The general coordinating role that

is foreseen for the EPPO appears problematic because it has consequences for the priorities and the use of financial budgets at the national level of the Member States. Furthermore, the EPPO initiative lacks a concrete procedure in which differences of opinion between the EPPO and Member States can be resolved.[21]

IV. Arguments of the Dutch Government against the EPPO Initiative

Besides the arguments in the position paper of the parliament, the Dutch government holds the opinion that the legal basis of the EPPO should be limited to Art. 86 para. 1 TFEU only. That means that other (related) cross-border crimes are not part of this mandate. The Dutch government rejects the option of the Commission (that Art. 86 as a whole is a legal basis for the EPPO) because this could lead to an enlargement of the mandate of the EPPO for crimes other than EU fraud.[22] This enlargement as such is possible according to Art. 86 para. 4 TFEU upon unanimous consent of the European Council, after approval by the European Parliament, and after consultation of the Commission.

In the view of the Dutch government, the EPPO initiative further implies that a considerable number of OLAF employees would be reallocated as a staff members of the EPPO. This would reduce the operating costs of the EPPO on the one hand but, on the other, the Dutch government is concerned that this reallocation would lead to a shift in administrative enforcement towards a more criminal one. This shift could seriously conflict with the general idea of criminal enforcement as an instrument of last resort *(ultimum remedium)*.[23] The Dutch government only agrees to the EPPO under the condition that the level of enforcement of national fraud cases remains the same. That means that the EPPO hands over the cases that it does not investigate to the Member States at the earliest possible moment, in order to ensure that the Member States can uphold their current level of administrative and criminal enforcement of national fraud cases.

Furthermore, the Dutch government observes that the internal working process of the EPPO in dealing with EU fraud cases is rather centralistic. Although the delegated public prosecutors are appointed for the enforcement in criminal cases in the Member States, according to the Commission's proposal they have to consult the European Public Prosecutor for almost every decision to get his consent. This method of decision-making promotes a uniform policy but does not take into account that, usually, only the public prosecutor and the investigation team dealing with a certain fraud case know the ins and outs of the case and are therefore in a better position to make the necessary decisions. Therefore, it seems that the better position for a European Public Prosecutor would be as a general coordinator in cross-border cases. Also, the European Public Prosecutor is entitled to investigate and prosecute a criminal case without any communication with the delegated public prosecutor. The Dutch government ultimately questions the necessity of the competence of the EPPO to investigate and prosecute a criminal case without any communication with the delegated public prosecutor as well as the practical applicability of this procedure.[24]

V. The Sovereignty Argument

A common denominator in the aforementioned arguments of the Dutch parliament as well as those of the Dutch government is the concept of sovereignty of the state. According to this concept, it is the nation state and parliament that have the exclusive competence over the use of criminal instruments, also when the investigation, prosecution, and sentencing of EU fraud are concerned. Furthermore, this competence can only be shared after consent of the Dutch state and parliament. In accordance with this interpretation, the concept of sovereignty seems obvious and in line with the interpretation of the founding father of the concept, *Jean Bodin*. He introduced this concept at the end of the 16th century and described it as the power to decide that is in the hands of the nation state.[25] In his view, the power of the state is the highest power and cannot be shared. Essentially, it consists of three elements: the people, the territory, and the exclusive power by an authority of the state.

In *Bodin*'s time, it was obvious that these three elements were embedded in the national state. In our times, we must question this position due to the concept of the European Union. First, the European Union does not only consist of national peoples but also of foreign peoples that have equal rights in a European legal space of freedom, security and justice (Art. 3 para. 2 TEU). Second, the national territories of the Member States are part of this European legal space and these Member States are bound to cooperate in good faith with the EU (Art. 4 para. 3 TEU). This European legal space also applies to the responsibility to combat EU fraud in an efficient and deterrent manner, as is shown by the ECJ's judgment in the *Greek Maize* case[26] that lies at the heart of Art. 325 TFEU. Third, the power of the European Union is not exercised by national authorities but in the Commission, the European Council, and the European Parliament. The essence of this observation is that sovereignty in the European Union is a concept that is no longer purely national but European. Both national and EU institutions need each other, especially concerning the combating of cross-border crime that perhaps can be better dealt with

on a European level.[27] What seems characteristic so far for the Dutch approach to the EPPO initiative is the overriding use of a purely national concept of sovereignty. This concept seems outdated and does not recognize the role of EU institutions in the European legal space, especially where the competence to deal with EU fraud is concerned. Given this national concept, it is understandable that the Dutch parliament and government use the principle of subsidiarity as a line of defense against the EU, while the alternative could be to explore together with the EU institutions how EU fraud could be best combatted on a European level.

VI. Effective Competence over the National Enforcement

Even if the EPPO initiative became acceptable for the Dutch parliament and government, it still is not clear whether and to what extent the EPPO really can offer an effective investigation and prosecution policy without having any effective competence over the police and the public prosecuting offices in the Member States. Bearing in mind the basic critique of *Fijnaut* on the Green Paper (see *supra* 2.), this issue is of great importance for the success of the EPPO. The starting point is that the EPPO be exclusively competent for the investigation and prosecution of criminal activities that endanger the financial interests of the EU described in the (proposed) PIF Directive.[28] The EPPO is competent if these criminal activities occur on the territory of a Member State or when the alleged offender is a national of a Member State or an employee of an EU institution.[29] The competence for the investigation and prosecution is assigned to the delegated public prosecutor unless there are conditions for the European Public Prosecutor to claim exclusive competence. The delegated public prosecutor then takes the necessary steps to investigate and prosecute.[30]

At this point, the support of national police forces in the Member States is required. This support could become problematic since the Dutch police is embedded in a national hierarchic structure, i.e., during investigations in criminal cases, the Dutch public prosecutor is in charge of these investigations and competent to give the necessary instructions to the police.[31] The Dutch Minister of Justice is politically responsible for the use of these instructions and therefore entitled to give general and specific instructions to the Dutch public prosecuting office.[32] This political responsibility means that the Minister of Justice is accountable to the Dutch parliament for his criminal policy and the supervision over criminal investigation and prosecution. It is foreseeable that this accountability will be questioned in the Dutch parliament at the moment the Minister has to explain that certain investigations and prosecuting decisions were undertaken within the competence of either the European Public Prosecutor or the delegated Dutch public prosecutor. The implication would then be that the Minister cannot be held accountable for these actions as the EPPO is competent. Hopefully, the Dutch parliament can learn to live with this dual competence over national enforcement.

Also the delegated Dutch public prosecutor will be faced with the consequences of dual competence. Acting on behalf of the EPPO will raise discussions over the required budgets for the investigation and prosecution of EU fraud cases. These budgets usually are reallocated for national fraud cases only, and the use for international cases on behalf of the EPPO probably requires consent from the national government and the parliament. As a consequence the delegated Dutch public prosecutor is confronted with a conflict of loyalties as he is accountable for the use of required budgets to the EPPO and the national authorities.

The position of the delegated public prosecutor is further compromised because his mandate is limited in time. His appointment is foreseen for five years, with the possibility of prolongation, but he may be relieved of his duties exclusively by the European Public Prosecutor.[33] What does this mean for the loyalty of the delegated public prosecutor towards the national public prosecuting office? He should be loyal towards the EPPO,[34] but when his mandate ends will his loyalty towards the national public prosecution office not be questioned? Since Dutch public prosecutors are not appointed for life, this could mean that a delegated public prosecutor might look for another career outside the national public prosecuting office once his mandate for the EPPO has expired. To prevent this from happening, some additional protection should be considered concerning the position of the delegated public prosecutor after his mandate has expired.

The dual competence over the enforcement by national agents becomes more problematic if we look at the ancillary competence of the EPPO as foreseen in Art. 13 of the EPPO initiative. Accordingly, the EPPO has – under certain conditions – competence over criminal activities not mentioned in the PIF Directive but inextricably linked to them. This opens the possibility that national cases be claimed by the EPPO because of their close relationship with EU fraud. In case of such a claim, the EPPO shall consult the national public prosecuting office and possibly Eurojust. If this consultation does not lead to an agreement, the decision will be made by "the national judicial authority competent to decide on the attribution of competences concerning prosecution at national level" (Art. 13 paras. 2 and 3 of the EPPO initiative). This sounds reasonable, but who is this national judicial authority in the Netherlands? It is not the Minister of Justice because he is not a judicial authority and only politically responsible for the prosecuting decisions of the Dutch public prosecuting office. The Dutch

public prosecuting office has the so-called monopoly on the decision to prosecute.[35] This decision does not require any consent of a judge unless on appeal of a directly interested party that disagrees with the decision not to prosecute (further) or the decision to prosecute for a lesser offence.[36] This appeal is foreseen as a counterbalance to the exclusive competence to prosecute assigned to the Dutch public prosecutor. Therefore, the judges are entitled to examine the prosecuting decision as to legal aspects as well as aspects of efficiency in this appeal procedure. It is, however, questionable whether Art. 13 para. 3 of the EPPO initiative does refer to such an action.

A second option would be that this judicial decision be made by the Dutch investigating judge who is addressed by the EPPO to review the required use of certain investigative measures. However, the Dutch investigating judge has no role in any prosecuting decision because of the aforementioned monopoly on the decision to prosecute assigned to the Dutch public prosecutor. The most likely judicial authority in the Netherlands would then be the College of General Prosecutors (*procureurs-generaal*). This college stands at the head of the Dutch public prosecuting office, is entitled to give general and specific instructions to the Dutch public prosecuting office, and is part of the judiciary according to the Dutch constitution.[37]

To prevent the foreseen procedure of Art. 13 para. 3 from leading to unintended controversies, two options should be considered. First, the EPPO could make all the final decisions on ancillary competence. This is a simple procedure but probably unacceptable to the Dutch parliament and government. The second option is that the final decisions on ancillary competence in practice could be taken by the College of General Prosecutors, accepting the fact that these decisions are often influenced by nationally oriented and less European-minded sentiments.

VII. Conclusion

It is unlikely that the Dutch parliament and the Dutch government will support the EPPO initiative in the near future. One argument for its rejection is that the initiative lacks a required legal basis. It is also argued that the foreseen competences of the EPPO do not seem to be in line with the principle of proportionality. Other arguments against the initiative have a common line of reasoning: They follow a distinctive interpretation of the concept of sovereignty by which the nation state, the Netherlands, is the exclusive legal forum to decide on the necessity and implementation of criminal law prosecution and investigation. As outlined above, this interpretation seems to be outdated but is still put forward by the Dutch institutions. However, there are parts of the EPPO initiative – in particular as regards the competences of the EPPO – that deserve further contemplation, so that a successful enforcement at the national level is ensured. To support this enforcement, it seems appropriate to provide for a further clarification of the position of the delegated public prosecutor and the ancillary competence of the EPPO.

What is the way forward? A realistic approach would be not to wait too long for the support of the Dutch for the EPPO initiative. Art. 86 para. 1 TFEU provides for the possibility of enhanced cooperation, i.e., the EPPO can be installed if nine Member States support the initiative. Ultimately, the Netherlands might not take part because of lacking consent on the initiative.

1 COM(2013) 534 final.
2 See, e.g., J. L. Lopes da Mota, "Eurojust – The heart of the Future European Public Prosecutor's Office", in eucrim 1-2/2008, pp. 62-66; S. White, "A decentralised European Public Prosecutor's Office", in eucrim 2/2012, pp. 67-75, and V. Covol, "From Europol to Eurojust – towards a European Public Prosecutor", in eucrim 2/2012, pp. 83-88.
3 TK 1991-1992, 22 300 VI, nr. 39, p. 13.
4 Mireille Delmas-Marty, Corpus Juris, Paris, Economica, 1997, p. 4.
5 COM (2001) 715 final.
6 C. Fijnaut, "De strafrechtelijke bescherming van de financiële belangen van de Gemeenschap tegen fraude; een pleidooi voor een realistische benadering", in Delikt & Delinkwent 2000, pp. 981-985.
7 C. Fijnaut/M. Groenhuijsen, "Een Europees openbaar ministerie: kanttekeningen bij het Groenboek", in Nederlands juristenblad 2002, p. 1234 and 1241.
8 TK 2013-2014, 32 317, nr. 206.
9 TK 2014-2015, 33 709, nr. 9, p. 2.
10 TK 2013-2014, 32 317, nr. 189 and TK 2015-2016, 32 317, nr. 302.
11 EK 2015-2016, 32 317, FQ, p. 4.
12 This paper was undersigned by Ard van der Scheur, at the time the rapporteur of the parliament on the EPPO initiative and currently the Dutch Minister of Security and Justice.
13 EK 2013-2014, 33 709, C, p. 1 and 2.
14 Position paper of the Dutch Parliament on the EPPO, p. 1.
15 Art. 5 para. 3 TFEU.
16 C. Fijnaut/M. Groenhuijsen, *op. cit.*, p. 1237.
17 Art. 5 para. 4 TFEU.
18 Position paper of the Dutch parliament on the EPPO, pp. 2 and 3.

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19 Position paper of the Dutch parliament on the EPPO, p. 1
20 Position paper of the Dutch parliament on the EPPO, p. 5.
21 Position paper of the Dutch Parliament on the EPPO, p. 4.
22 TK 2012-2013, 22 112, nr. 1681, pp. 4 and 6.
23 TK 2012-2013, 22 112, nr. 1681, p. 3.
24 TK 2012-2013, 22 112, nr. 1681, p. 7.
25 Jean Bodin, *Six Livres de la République* 1576 (The Six Bookes of a Commonweale 1606).
26 ECJ, Case 68/88, *Commission of the European Communities v Hellenic Republic*, 21 September 1989.
27 L.J. Brinkhorst, *Europese Unie en nationale soevereiniteit*, Leiden 2008, pp. 9 and 10.
28 COM(2012) 363 final.
29 Art. 11 paras. 4, 12 and 14 EPPO initiative.
30 Art. 16, 18 paras. 5, 26 and 27 EPPO initiative.
31 Art. 148 Dutch Criminal Procedure Code (DCCP).
32 Art. 127 Law on the Organization of the Judiciary (*Wet op de Rechterlijke Organisatie*).
33 Art. 10 paras. 1 and 3 EPPO initiative.
34 Art. 18 para. 1 EPPO initiative.
35 Art. 167 para. 1 DCCP.
36 Art. 12 DCCP.
37 Art. 130 paras. 2 and 4 Law on the Organization of the Judiciary.

L'Europe à la poursuite des droits fondamentaux

Bertrand Favreau

Where does the protection of human and fundamental rights stand in Europe, particularly in the European Union of the 28 European Member States? Where can the « common heritage of political traditions, ideals, freedom and the rule of law », which is evoked in the preamble of the ECHR, be seen today? The article responds to these questions by arguing first that the European Community (later the European Union) has – from the outset – been in a pursuit race regarding the effective protection of fundamental rights. Effects of this phenomenon are still apparent today. Examples given in the article show that the European Union falls short of the aforementioned common heritage. Regarding asylum rights, for example, the CJEU does not completely follow the ECtHR case law. Regarding the European Arrest Warrant, it was a recent call of the German Federal Constitutional Court that triggered a change of thinking at the Court in Luxembourg on how the state of execution can protect the fundamental rights of the person sought. In the second part, the article further elaborates on how the fundamental rights protection is at test regarding the current crises. In this context, it points out the protocols no. 15 and 16 to the ECHR that, according to the author, give the states a margin of appreciation that it too large, thus enabling them to avoid respecting the Convention's guarantees. In the third part, the author addresses the (im)possible accession of the EU to the ECHR as foreseen by the Treaty of Lisbon. He argues that accession currently is in the far distant future and could lead to the persistence of a "double Europe" in which fundamental rights and freedoms are insufficiently protected. However, the article does not conclude pessimistically, but argues that the European Union can win the pursuit race on fundamental rights.

Peut-être se rendra-t-on compte un jour que l'erreur de l'Europe, c'est de ne s'être ralliée que trop tard au primat en terme d'effectivité de ces droits que l'on appelle au gré des pays ou des traductions: droits de l'homme, droits humains ou pour reprendre l'expression de la Charte, droits fondamentaux.

Aujourd'hui, où en sont les droits fondamentaux tels qu'ils résultent de la Charte des droits fondamentaux de l'Union européenne (ci-dessous « la Charte ») mais aussi tels qu'ils sont garantis par la Convention européenne de sauvegarde des droits de l'homme et des libertés fondamentales et tels qu'ils résultent des traditions constitutionnelles communes aux États membres, qui font partie du droit de l'Union en tant que « principes généraux », pour reprendre une expression figurant dans le traité sur l'Union européenne ? Où en est ce « patrimoine commun d'idéal et de traditions politiques, de respect de la liberté et de prééminence du droit » qu'évoque le 5ème alinéa du Préambule de la Convention européenne des droits de l'homme, à laquelle tous les États membres de l'Union européenne sont parties?

Cet article s'attache à relater les failles originelles de l'Union Européenne à travers les différentes matières de droit qui ont abouti à une course à la poursuite des droits fondamentaux. L'article évoque ensuite l'incidence de ces droits au regard des crises que traverse l'Europe notamment à l'heure de la