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**12TH MEETING OF THE COMMISSIONERS GROUP ON FUNDAMENTAL RIGHTS,
ANTI-DISCRIMINATION AND EQUAL OPPORTUNITIES**

*Tuesday 19 February 2008, 16h30 – 18h00
Strasbourg 7th floor, room WIC 700, WIC (IP1)*

EUROPEAN AGENCY ON FUNDAMENTAL RIGHTS

Information note prepared under the authority of Vice-President Frattini

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Fundamental Rights Agency

Regulation 168/2007 establishing a European Union Agency for Fundamental Rights (FRA) was adopted on 15 February 2007. On 1 March 2007, the Agency replaced the European Monitoring Centre on Racism and Xenophobia (EUMC) succeeding it in all its rights and obligations. Pending the adoption of the Multiannual Framework (MAF) laying down the Agency's areas of activity, the FRA carries out its tasks in the area of the fight against racism, xenophobia and related intolerance (which correspond to the mandate of the former EUMC).

For the Agency to become fully operational, a number of implementing measures are needed. The Commission is responsible for some of these measures. This information note aims to provide an overview of the ongoing setting-up process of FRA, which is attracting considerable attention from the European Parliament, Council and civil society.

1. Selection procedure and appointment of the new Director

- The former Director of the EUMC, Ms. Beate Winkler, served as interim Director of the Agency until 15 July 2007. The most senior official within the Agency (and also its Head of Administration), Mr. Constantinos Manolopoulos, is currently the acting Director.
- The Vacancy Notice for the post of Director was published on 31 March 2007. The deadline for applications was 30 April 2007. After completion of the different phases of the selection procedure, the Commission adopted on 28 November the short-list of two candidates, and sent it to the EP and the Council (the list is not public).
- The Council (troika) and the Parliament (LIBE Committee) heard the two candidates on 11 February. Both institutions will thereafter adopt their respective order of preference, and transmit it to the Management Board of the Agency.
- Therefore, in principle, the Management Board will appoint the Director of the Agency at its meeting of 6-7 March.

2. The Multiannual Framework (MAF)

- According to the FRA Regulation, the thematic areas of activity of the Agency are laid down in a Multiannual Framework (taking the form of a Council Decision, adopted by simple majority after an opinion of the Parliament).
- The Management Board of the Agency was consulted on a first draft of the MAF in July 2007. The Commission adopted its formal proposal on 12 September 2007.
- The draft was discussed in the Council and EP thereafter. During negotiations, a number of informal meetings took place between the Presidency, the EP and the Commission, which allowed to find compromise solutions.
- The EP adopted its opinion on the MAF on 17 January 2008.
- The adoption of the MAF is envisaged for 28 February (JHA Council).

3. Cooperation agreement between the European Community and the Council of Europe.

- The Council adopted the directives for the negotiation of the Agreement on 15 February 2007. Negotiations between the Commission and the Council of Europe took place between March and May 2007. The Council was consulted and Parliament was kept informed.

- The Council of Europe's Committee of Ministers approved the text of the Agreement unanimously on 20 June. The Commission put forward a draft Decision for its conclusion on 21 August.
- The Agreement establishes a comprehensive cooperation framework between the Agency and the Council of Europe. It includes provisions on the organisation of regular contacts, meetings, exchange of information, coordination of activities and joint activities. The Agreement provides for the appointment by the Council of Europe of two independent persons to sit on the Management and Executive Boards of the Agency as member and deputy member. The Agreement sets out the Council of Europe's voting rights in these organs (this was the most controversial item of the negotiations).
- COREPER discussed the Decision on the conclusion of the Agreement at its meeting of 6 February (point I). The Decision is likely to be formally adopted on 28 February at JHA Council.

4. Participation as observers of candidate countries and potential candidate countries

- The Management Board of the EUMC had invited Croatia and Turkey to appoint independent personalities to sit in the Board as observers. However, the Agency Regulation says that the participation of candidate countries and potential candidate countries in the Agency as observers is subject to a decision of the relevant Association Council, which will also fix the modalities of that participation.
- Commission services (JLS, ELARG and the Legal Service) are working at technical level to prepare the Commission proposals that would make it possible for Turkey, Croatia, and FYRoM to participate in the Agency as observers.
- As regard the timing, the proposals could be adopted by the Commission in forthcoming months. The time schedule for the proposal will also depend on the length of the consultation with the candidate countries on issues related to their financial contribution and other modalities under the Regulation.
- At this stage, the COM does not intend to make proposals for potential candidate countries in short term. In the light of experience gained with the functioning of FRA and the extension of its scope to CCs (which will already be quite a challenging task), we could certainly revisit this issue in one and a half or two years time.

5. Appointment by the Member States and the Council of Europe of their members of the Management Board

- Immediately after the adoption of the Regulation, the Commission requested the Member States and the Council of Europe to appoint the independent persons who sit in the Agency's Management Board as member and deputy member, respectively.
- To date, all the Member States have appointed their respective members to the Management Board. Five Member States (Spain, Lithuania, Poland, Portugal and Slovakia) have not yet appointed their deputy members.

6. Measures for whose initiation and implementation the Agency is responsible for.

Quite a number of implementing measures fall under the Agency's own responsibility as an independent body. The Commission follows, supports and encourages progress towards their adoption through (a) its representation in the Agency's governing bodies (Management and Executive Boards), and (b) the adoption of formal opinions on certain rules before they can be adopted by the Management Board.

- a) Meetings of the Management Board and of the Executive Board:** both bodies have already met three times. At its first meeting in July 2007, the Management Board elected

its Chairperson (Ms. Crickley, IRL) and Vice-Chairperson (Mr. Tretter, AUT). The Executive Board is composed by the Chair, the Vice-Chair, the independent person appointed by the Council of Europe (Mr. De Vel), the Commission representative (Mr. Fonseca Morillo), and two more members elected by the Management Board: Ms. Brands-Kehris (LTV, former Vice-Chair of the EUMC's Management Board) and Ms. Pacciotti (IT).

- b) **Cooperation of the Agency with civil society and with the Fundamental Rights Platform:** The Agency, with the support of the Commission, has engaged with civil society since its creation (consultations, questionnaire, meetings). The new Management Board met with civil society for half a day at its first meeting. A meeting closing FRA's consultation with civil society on the setting up of the Platform took place on 10-11 December 2007. The setting-up of the platform is the responsibility of the Director.
- c) **Scientific Committee:** the Regulation establishing the Agency introduced a Scientific Committee as "guarantor of the scientific quality of the Agency's work, guiding the work to that effect". The Scientific Committee is appointed by the Management Board. At its meeting in October 22-23, the Management Board approved the text of the Call for expression of interest for membership of the Committee, which was published thereafter. The selection phase is under the responsibility of the Agency's Executive Board. The Management Board will appoint the members after the EP LIBE Committee is consulted.
- d) **Legal expertise at the Agency's disposal:** The Agency needs substantial legal expertise in order to adequately perform its tasks. Therefore, it launched a call for tender, following which a contract was signed for the creation of a group of legal experts (FRALEX).
- e) **Internal rules:** the Agency is also preparing the adoption by the Management Board of quite a number of internal implementing rules. Some of these (staff Regulation implementing rules, financial rules) cannot be adopted before the Commission adopts a formal opinion on them.
- f) **Current work of the Agency:** the Agency is implementing the projects included in its 2007 Work Programme and the first part of the 2008 Work Programme (work in the area of racism, xenophobia and related intolerance). The Agency is currently preparing the adoption by the Management Board of the second part of the 2008 Work Programme (on the areas added by the Multiannual Framework).

By way of exception, at the request of the Parliament and Commission, the Agency is carrying out two projects outside the racism area: (i) a study concerning "discrimination based on sexual orientation in the Member States when implementing EU law", and (ii) a project "to develop to a set of indicators for measuring how children's rights are implemented, protected, respected and promoted in the Member States, including a map of data resources in the area of children's rights and the identification of gaps in data availability and comparability".