

# European Union Agency for Fundamental Rights: pursuing actions on police and judicial co-operation in criminal matters, Treaty TEU Title VI

2005/0125(CNS) - 30/06/2005 - Document attached to the procedure

## COMMISSION'S IMPACT ASSESSMENT

*For further information concerning the background to this issue, please refer to the summary of the Commission's initial proposal of 30 June 2005 for a Council Decision empowering the European Union Agency for Fundamental Rights to pursue its activities in areas referred to in Title VI of the Treaty on European Union – COM(2005)0280.*

*Note: This proposal was tabled in conjunction with a related proposal for a Council Regulation establishing a European Union Agency for Fundamental Rights (please refer to summary relating to CNS /2005/0124).*

### 1- POLICY OPTIONS AND IMPACTS

To address the Council's policy objectives, five policy options were identified in this extended impact assessment. These policy options were elaborated in terms of tasks and outputs:

**1.1- Option 1 – 'status quo':** where current structures such as EUMC and the Network of independent experts in fundamental rights would continue. There would also be a number of short and medium-term developments (such as establishment of the European Institute for Gender Equality). This option would not meet the policy objectives of the Council to establish an EU Fundamental Rights Agency - an idea that was also almost unanimously supported in the public consultation launched by the Commission.

**1.2- Option 2 – 'Focused Observation Agency':** which could collect information on fundamental rights in a limited number of thematic areas having strongest links to EU policies. The remit of the Agency would be considered 'technical assistance' to the EU institutions. This option would address the problems in the current situation but only to a very limited extent. The impact on improving fundamental rights data quality, the key objective of the Council, would be marginal. So the potential of this policy option to contribute to the policy objectives is very limited. The opinions expressed in the **course of the public consultation were divided about the effectiveness of this policy option.**

**1.3- Option 3 – 'General Observation Agency':** that would be similar in the scope of its tasks to policy option 2, but would cover more thematic areas.

**1.4- Option 4 – 'Focused Observation and Assessment Agency on Union Policies':** that would include all the objectives and activities of policy option 3. In addition, the Agency would have greater responsibilities as regards observing EU institutions and Member States when they implement Union law. Based on data collection, the Agency would carry out assessments and issue opinions to EU institutions and Member States.

**1.5- Option 5 – ‘Widest Possible Observation and Assessment Agency’, covering both Union and non-Union policies:** that would include all the objectives and activities identified for policy option 4. But the Agency would also monitor respect for fundamental rights in the Member States for the purposes of Article 7 TEU, i.e. it would monitor Member States also when they act autonomously, outside EU law. In practice, this would require the Agency to have substantial presence in each EU Member State.

*CONCLUSION:* Option 4 – ‘Focused Observation and Assessment Agency limited to Union law’ – emerged from the impact assessment as the preferred way to achieve the policy objectives and address the problems identified. **It addresses the problems in the current situation efficiently; it entails a medium financial cost, and it has a considerable degree of political acceptability.**

## **IMPACTS**

The proposed establishment of a Fundamental Rights Agency would have an impact in several positive respects relating to the quality of information, as well as to systematic observation of impact on fundamental rights resulting from EU action and from implementation of EU law by the Member States.

The Agency will increase the availability, quality and comparability of data and information by closely working with Member States’ statistical institutes and other stakeholders to improve the current situation. In contrast to policy option 3, the task of issuing opinions will provide an additional impetus to ensure that data and information are valid, comparable and available. The Agency will establish comprehensive systems to observe the impact of EU and Member States’ action on the ground through better availability of information and issuing of opinions. The focus on the areas of Union competence means, however, that observation and assessment of issues is limited to how the implementation of EU law and policies affects fundamental rights in practice. The creation of the Agency will lead to better coordination of national human rights institutions and engagement with NGOs, when the Agency will work with them for consultation, information-gathering purposes. It will also increase awareness of citizens of their fundamental rights. This will be done via publicity campaigns, public website, access to Agency resources etc, in accordance with a communication strategy to be prepared by the Agency.

The Agency will increase the coherence and consistency of applying fundamental rights standards in the Union policies by acting as a centre of expertise for the Union institutions. The Agency will also have a duty to respond rapidly to requests for information and assistance from the Union institutions. By observing and assessing the impacts on fundamental rights from the Union policies and legislation, the Agency will have ability to improve the coherence of fundamental rights policy of the EU.

Efficiency is expected as work will be targeted and focused on Union priorities. Focus on EU level priorities ensures relevance of the Agency to the Union’s policies. It will also contribute avoiding duplication of work by other institutions at the international, European and national levels.

Lastly, by keeping racism and xenophobia as one of the prime fields to observe and assess, the Agency will ensure EUMC work on racism and xenophobia will not be diluted. Continuation of EUMC work will facilitate the transformation into an Agency and retain EUMC expertise and institutional learning.

The screening did not reveal any significant negative impacts of the proposal in economic, social or environmental area. On the contrary, a high level of respect of fundamental rights will affect positively to other policy areas of the Union, and thus indirectly lead also to high economic, social and environmental standards for the advantage of the Europeans.

## **2- FOLLOW-UP**

The Director of the Fundamental Rights Agency will be responsible for the implementation of effective monitoring and evaluation of the performance of the Agency against its objectives according to

professionally recognized standards and shall report annually to the Management Board on the results of the evaluation.

The Director will prepare an annual report on the activities of the Agency which will compare, in particular, the results achieved with the objectives of the annual Work Programme; this report, following adoption by the Management Board, will be forwarded by 15 June at the latest to the European Parliament, the Council, the Commission and the Court of Auditors.

The Agency should also be subject to periodic external evaluation. The first external evaluation should be carried out after three years of operation. Such an external evaluation, in addition to questions of efficiency and effectiveness, should also consider the following questions:

- the Agency's place in, and contribution to, the system of European governance (as a means of delivering Community policy objectives);
- the consistency of the Agency's activities with those of other international organisations, such as the Council of Europe, OSCE and UN, and other relevant European bodies, such as the European Institute for Gender Equality;
- the value added by the Agency as a type of implementation of Community policy (compared to "in-house" implementation by Commission departments);- the longer-term impact of the Agency's activities on citizens and their level of awareness of their fundamental rights.