European Union Agency for Fundamental Rights

2005/0124(CNS) - 15/02/2007 - Final act

PURPOSE: to establish an Agency for Fundamental Rights building upon the existing European Monitoring Centre on Racism and Xenophobia.

LEGISLATIVE ACT: Council Regulation (EC) No 168/2007 establishing a European Union Agency for Fundamental Rights.

CONTENT: this Decision sets up the Agency, the object of which is to provide the relevant institutions, bodies, offices and agencies of the Community and its Member States when implementing Community law with assistance and expertise relating to fundamental rights in order to support them when they take measures or formulate courses of action within their respective spheres of competence to fully respect fundamental rights. The Agency legally succeeds the European Monitoring Centre on Racism and Xenophobia, and its seat of the Agency is in **Vienna**.

Tasks: to meet the objective and within its competences, the Agency shall:

- collect, record, analyse and disseminate relevant, objective, reliable and comparable data, including results from research and monitoring communicated to it by Member States, Union institutions as well as bodies, offices and agencies of the Community and the Union, research centres, national bodies, non-governmental organisations, third countries and international organisations and in particular by the competent bodies of the Council of Europe;
- develop methods and standards to improve the comparability, objectivity and reliability of data at European level, in cooperation with the Commission and the Member States;
- carry out, or encourage scientific research and surveys, preparatory studies and feasibility studies, including, where appropriate and compatible with its priorities and its annual work programme, at the request of the European Parliament, the Council or the Commission;
- formulate and publish conclusions and opinions on specific thematic topics, for the Union institutions and the Member States when implementing Community law, either on its own initiative or at the request of the European Parliament, the Council or the Commission;
- publish an annual report on fundamental-rights issues covered by the areas of the Agency's activity, also highlighting examples of good practice;
- publish thematic reports based on its analysis, research and surveys;
- publish an annual report on its activities; and
- develop a communication strategy and promote dialogue with civil society, to raise public awareness of fundamental rights and actively disseminate information about its work.

The conclusions, opinions and reports may concern proposals from the Commission under Article 250 of the Treaty or positions taken by the institutions in the course of legislative procedures only where a request by the respective institution has been made. They shall not deal with the legality of acts within the meaning of Article 230 of the Treaty or with the question of whether a Member State has failed to fulfil an obligation under the Treaty within the meaning of Article 226 of the Treaty.

The Council shall, acting on a proposal from the Commission and after consulting the European Parliament, adopt a **Multiannual Framework for the Agency.** When preparing its proposal, the Commission must consult the Management Board.

The Framework will cover **5 years** and determine the thematic areas of the Agency's activity, which must include the fight against racism, xenophobia and related intolerance. It must also be in line with the

Union's priorities, taking due account of the orientations resulting from European Parliament resolutions and Council conclusions in the field of fundamental rights. The Framework must include provisions with a view to ensuring complementarity with the remit of other Community and Union bodies, offices and agencies, as well as with the Council of Europe and other international organisations active in the field of fundamental rights. The Agency will carry out its tasks within the thematic areas determined by the Multiannual Framework. This will be without prejudice to the responses of the Agency to requests from the European Parliament, the Council or the Commission outside these thematic areas, provided its financial and human resources so permit.

Working methods: the Agency must draw on the expertise of a variety of organisations and bodies in each Member State and take account of the need to involve national authorities in the collection of data. In pursuing its activities, the Agency shall, in order to achieve complementarity and guarantee the best possible use of resources, take account of information collected and of activities undertaken, in particular by: Union institutions and bodies, offices and agencies of the Member States; the Council of Europe; and the Organisation for Security and Cooperation in Europe (OSCE), the United Nations and other international organisations.

In order to ensure close cooperation with Member States, each Member State shall nominate a government official as a National Liaison Officer, who shall be the main contact point for the Agency in the Member State.

Bodies of the Agency: the Agency will comprise:

- **a Management Board**: it shall be composed 1 independent person appointed by each Member State, having high level responsibilities in an independent national human rights institution or other public or private sector organisation; 1 independent person appointed by the Council of Europe; and 2 representatives of the Commission. Their term of office shall be 5 years. It shall not be renewable. The board shall adopt the Agency's Annual Work Programme in accordance with the Multiannual Framework; adopt the annual reports; appoint and, if necessary, dismiss the Agency's Director; adopt the Agency's annual draft and final budgets and draw up an annual estimate of expenditure and revenue for the Agency.
- **an Executive Board**: it shall be made up of the Chairperson and the Vice-Chairperson of the Management Board, 2 other members of the Management Board elected by the Management Board and 1 of the representatives of the Commission in the Management Board. The person appointed by the Council of Europe in the Management Board may participate in the meetings of the Executive Board. It shall prepare the decisions of the Management Board and assist and advise the Director.

- **a Scientific Committee**: it shall be composed of 11 independent persons, highly qualified in the field of fundamental rights. The Management Board shall appoint the members following a transparent call for applications and selection procedure after having consulted the competent committee of the European Parliament. Their term of office shall be 5 years. It shall not be renewable.
- **a Director**: the Director shall be appointed by the Management Board in accordance with a cooperation (concertation) procedure. The Director will be chosen from a list drawn up by the Commission and will ensure the matters of day-to-day administration; the implementation of the Agency's budget and participate in the preparation and implementation of the Agency's Annual Work Programme. The Director's term of office shall be 5 years.

Operation: the Agency shall fulfil its tasks in complete independence. The Agency shall develop good administrative practices in order to ensure the highest possible level of transparency concerning its activities. Regulation (EC) No 1049/2001 shall apply to documents held by the Agency. Data protection provisions shall also be complied with.

It is also provided that this Agency should be open to the participation of candidate countries. Furthermore, the countries with which a Stabilisation and Association agreement has been concluded should be allowed to participate in the Agency, since this will enable the Union to support their efforts towards European integration by facilitating a gradual alignment of their legislation with Community law as well as the transfer of know-how and good practice, particularly in those areas of the acquis that will serve as a central reference point for the reform process in the Western Balkans.

Evaluations: apart from the Agency's own evaluations, it must, not later than 31 December 2011, commission an independent external evaluation of its achievements during the first five years of operations on the basis of terms of reference issued by the Management Board in agreement with the Commission.

ENTRY INTO FORCE : 23/02/2007.

APPLICATION : 01/03/2007.