Basic information

2005/0124(CNS) CNS - Consultation procedure Regulation	Procedure completed
European Union Agency for Fundamental Rights Repealing Regulation (EC) No 1035/97 1996/0298(CNS) See also 2016/0204(APP) **Subject** 1.10 Fundamental rights in the EU, Charter 7.30.08 Action to combat racism and xenophobia 8.40.08 Agencies and bodies of the EU	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	GÁL Kinga (PPE-DE)	14/09/2005

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs (Associated committee)	ÖZDEMIR Cem (Verts/ALE)	29/08/2005
BUDG Budgets	HAUG Jutta (PSE)	20/09/2004
CULT Culture and Education	The committee decided not to give an opinion.	
AFCO Constitutional Affairs	The committee decided not to give an opinion.	13/07/2005
FEMM Women's Rights and Gender Equality	BOZKURT Emine (PSE)	04/10/2005

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2736	2006-06-12
Justice and Home Affairs (JHA)	2768	2006-12-04
Justice and Home Affairs (JHA)	2781	2007-02-15
Justice and Home Affairs (JHA)	2752	2006-10-05

European Commission	Commission DG	Commissioner
	Justice and Consumers	FRATTINI Franco

Key events

Date	Event	Reference	Summary
30/06/2005	Legislative proposal published	COM(2005)0280	Summary
29/09/2005	Committee referral announced in Parliament		
29/09/2005	Referral to associated committees announced in Parliament		
12/06/2006	Debate in Council		Summary
13/09/2006	Vote in committee		Summary
26/09/2006	Committee report tabled for plenary, 1st reading/single reading	A6-0306/2006	
05/10/2006	Debate in Council		Summary
12/10/2006	Decision by Parliament	T6-0414/2006	Summary
12/10/2006	Results of vote in Parliament		
12/10/2006	Debate in Parliament		
30/11/2006	Decision by Parliament	T6-0509/2006	Summary
30/11/2006	Results of vote in Parliament		
04/12/2006	Debate in Council		
15/02/2007	Act adopted by Council after consultation of Parliament		
15/02/2007	End of procedure in Parliament		
22/02/2007	Final act published in Official Journal		

Technical information

Procedure reference	2005/0124(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Repealing Regulation (EC) No 1035/97 1996/0298(CNS) See also 2016/0204(APP)
Legal basis	EC Treaty (after Amsterdam) EC 308
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/6/29477

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE369.836	07/02/2006	
Committee opinion	FEMM	PE371.809	21/03/2006	
Amendments tabled in committee		PE370.083	05/04/2006	
Committee opinion	BUDG	PE367.891	25/04/2006	
Committee opinion	AFET	PE364.872	04/05/2006	
Amendments tabled in committee		PE374.435	28/06/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0306/2006	26/09/2006	
Text adopted by Parliament, partial vote at 1st reading /single reading		T6-0414/2006	12/10/2006	Summary
Text adopted by Parliament, 1st reading/single reading		T6-0509/2006	30/11/2006	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0280	30/06/2005	Summary
Document attached to the procedure	SEC(2005)0849	30/06/2005	
Commission response to text adopted in plenary	SP(2007)0054	11/01/2007	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0239/2006	14/02/2006	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2007/0168
OJ L 053 22.02.2007, p. 0001 Summary

European Union Agency for Fundamental Rights

2005/0124(CNS) - 12/06/2006

The Council took note of work on a draft Regulation aimed at establishing an EU Agency for Fundamental Rights and on a draft Decision on pursuit by the agency of its activities. It requested the Permanent Representatives Committee to continue work on the remaining outstanding questions so as to enable the Council to reach an agreement.

European Union Agency for Fundamental Rights

2005/0124(CNS) - 30/11/2006 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Kinga **Gál** (EPP-ED, HU) and approved the Commission proposal as amended by Parliament on 12 October 2006. (Please see the preceding document.) The resolution was adopted by 431 votes in favour to 94 against with 16 abstentions. This resolution is closely connected to that drafted by Magda Kósáné **Kovács** (PES, HU) of the same date. (Please see **CNS/2005/0125.**)

European Union Agency for Fundamental Rights

2005/0124(CNS) - 30/06/2005 - Legislative proposal

PURPOSE : The establish a European Union Agency for Fundamental Rights.

PROPOSED ACT : Council Regulation.

CONTENT: In 2003 the Member States agreed to build upon the existing European Monitoring Centre on Racism and Xenophobia (EUMC), based in Vienna and to extend its mandate by turning it into a Human Rights Agency. For legal reasons the Commission is presenting two separate proposals concerning the establishment of the Agency. The first is this Regulation, which is the appropriate instrument for establishing an Agency and the second is a Decision (CNS/2005/0125), which seeks to entrust the Agency with tasks in areas referred to in Article VI of the TEU.

The Charter of Fundamental Rights of the European Union is the point of reference for the Agency's mandate. The objective of the Agency will be to provide the relevant EU institutions, bodies, offices and agencies with assistance and expertise relating to fundamental rights when defining policies or implementing legislation. The thematic areas of activity will be distinguished by a Multi-annual Framework, determined by an implementing Regulation. The idea of the Agency is to allow the Council, for example, to exploit the Agency's expertise when acting on a proposal by one third of the Member States, by the European Parliament or by the Commission during the procedure under Article 7 of the TEU. Importantly, the mandate of the Agency will not be to carry out systematic and permanent monitoring of the Member States for the purposes of Article 7. More specifically speaking the Agency will be expected to perform the following operational objectives:

- To collect, record, analyse and disseminate information on how fundamental rights are affected by the implementation of Community policy;
- To identify and validate good practice and to analyse how fundamental rights are respected by the EU institutions when implementing EU law;
- To develop methods whereby the comparability of and quality of the fundamental rights data collected at both an EU and national levels are observed;
- To carry out scientific studies;
- To produce annual reports on the state of play of fundamental rights in the Union.

A further role of the Agency will be to collaborate closely with relevant organisations and bodies in order to gain synergies with them. For instance, the work on statistics will be in line with the actions developed in the context of the Community Statistical Programme. To avoid any overlapping, the Agency will build close institutional ties with the Council of Europe and other relevant Community bodies especially with the European Institute for Gender Equality.

The Regulation sets out the structure of the Agency by specifying that is shall comprise of:

- a management board;
- an executive board;
- a director;
- a forum.

Given that the existing EUMC is located in Vienna the proposal suggests that the Agency should take over the seat of the EUMC in its current location. Upon the adoption of the proposed Regulation and accompanying Decision, existing legislation relating to the EUMC will be repealed.

Regarding budgetary implications, it is being proposed that the Agency begin work as early as 1 January 2007, with a considerably extended mandate. In order to take account of the inevitable transition period, a growing budget for the period 2007-20013 is being proposed.

For more details concerning the financial implications of this measure, please refer to the financial statement.

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.

European Union Agency for Fundamental Rights

2005/0124(CNS) - 12/10/2006 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament decided to postpone the final vote on the reports by Kinga **GÁL** (EPP-ED, HU) and Magda **KOSANE KOVACS** (PES, HU) on the establishment of the EU Fundamental Rights Agency to signal that it insists the scope of the new body to be extended to intergovernmental cooperation in policing, justice, immigration and counter-terrorism issues. The rapporteurs proposed that the final vote should be postponed in order to give the Commission more time to reach a compromise with the Council. Certain Member States favour the proposition that the Agency should deal not only with first pillar issues but also third pillar ones such as police and justice cooperation which includes measures on immigration and counter-terrorism. (Please see **CNS/2005/0125**).

Accordingly, Parliament approved the decision of its competent committees and accepted the 43 amendments proposed by the latter. It also rejected by a large majority (113 votes for, 489 against and 16 abstentions) the proposition of the IND/DEM group to reject the Commission's entire proposal.

The European Parliament's amendments largely dealt with the question of enlarging the competences of the Agency. The key amendments were as follows:

- as the Agency is to be built upon the existing European Monitoring Centre on Racism and Xenophobia, the work of the Agency should continue to cover the phenomena of racism, xenophobia and anti-Semitism, as well as the protection of rights of persons belonging to minorities, as essential elements in the protection of fundamental rights;

- the Agency should make its technical expertise available to the European Parliament as well as to the Council;

- it should develop a communication strategy and promote dialogue with civil society, in order to raise public awareness of fundamental rights and actively inform the public of its work;

- the Management Board of the Agency, taking due account of the guidelines arising from European Parliament resolutions and Council conclusions in the field of fundamental rights, shall, on the basis of a proposal by the Commission, adopt a multi-annual framework;

- the Agency should carry out its tasks within the thematic areas determined by the multi-annual framework. However, the Agency shall also respond to requests from the European Parliament, the Council or the Commission that fall outside those thematic areas, provided that its financial and human resources so permit;

- in order to ensure close cooperation with Member States, each Member State shall nominate a government official as a national liaison officer;

- the organisations with which the Agency should cooperate should include national human rights institutions, and the OSCE, especially the Office for Democratic Institutions and Human Rights (ODIHR), the United Nations and other international organisations;

- the appointee of the Council of Europe should sit on the Agency's the Agency's Executive Board as well as its Management Board;

- Parliament has inserted a clause establishing and defining the duties of a Fundamental Rights Platform;

- the term of office of the members and alternate members of the Management Board shall be five years. It shall not be renewable;

- the geographical scope of the Agency should be widened from EU Member States to both candidate countries and to states with stabilisation and association agreements;

- Parliament wants more say in how the agency works, including a consultative role on appointment of the body’s director and on the agency’s five-year work plan;

- the Agency should have a Scientific committee which will consist of eleven independent experts and will guarantee the scientific quality of the work.

Lastly, the European Parliament wants the deadline for the independent external evaluation of the Agency to be 31 December 2011, rather than 31 December 2009 as originally proposed. Such an evaluation should include an assessment of the possible need to modify the Agency's tasks, scope, and areas of activity or structure.

European Union Agency for Fundamental Rights

2005/0124(CNS) - 05/10/2006

The Council had an exchange of views on the state of play regarding the establishment and effective functioning of the Agency.

The debate focused on the main outstanding question, which is the extension of the scope of the Agency to questions relating to police and judicial penal cooperation (Title VI of the Treaty on European Union, the so-called "Third Pillar").

The Presidency called on Member States, in a constructive spirit, to help in finding a compromise solution to this question, with a view to establishing of the Agency before the end of the year, in accordance with the timeframe set by the European Council in June 2006.

In this respect, the Presidency indicated that it would submit a compromise solution to delegations in the near future.